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**LEGISLATIVE ASSEMBLY
OF ONTARIO**
THIRTY-FIRST PARLIAMENT

**FOURTH SESSION
THIRTY-FIRST PARLIAMENT**

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**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Education Act, 1974

**THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities**

TORONTO

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EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “exceptional pupil” is required because of the use of this term throughout the Act.

The terms “special education program” and “special education services” were described previously only in the Regulation—Elementary and Secondary Schools—General. With the revision of that Regulation, it is now necessary to have a clear definition of what is meant by these terms and since the terms are used in the Act, the definitions are now included in the Act. Special education services include aides, volunteers and professional personnel.

Subsection 2. Paragraph 66 of subsection 1 of section 1 of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. *“trainable retarded child” means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children.*

The purpose of the amendment is to enable persons of compulsory school age to attend a school for trainable retarded pupils until they attain the age of twenty-one years. Heretofore the upper age limit was set at eighteen years of age.

SECTION 2. The purpose of the new clause y is to enable the Minister to require elementary school-boards to implement procedures for the early identification of the needs and abilities of pupils.

It is considered that the exceptionalities of pupils are such that universally accepted definitions thereof may not be possible. It is, however, important for uniformity of approach to the education of exceptional pupils by the school boards in Ontario that there be consistency in the terminology that is used by those boards. The power granted to the Minister by the new clause z is to ensure that in so far as it may be possible those concerned in the education of exceptional pupils will be working with the same terms of reference.

BILL 82

1980

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs: s. 1 (1),
amended

20a. “exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to be suited for placement in a special education program by a committee of the board of which he is a resident pupil established under subparagraph iii of paragraph 5 of subsection 1 of section 10;

62a. “special education program” means an instructional program that meets or is designed to meet the needs of an exceptional pupil;

62b. “special education services” means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

- (2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor: s. 1 (1),
par. 66,
re-enacted

66. “trainable retarded child” or “trainable retarded pupil” means a pupil who is six or more years of age, but less than twenty-one years of age, whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

2. Subsection 1 of section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 77, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following clauses: s. 8 (1),
amended

identification
programs

- (y) require elementary school boards to implement procedures for early identification of the learning abilities and needs of pupils and may provide guidelines in accordance with which such procedures shall be implemented;

special
education
programs
and
services

- (z) in respect of special education programs and services,

- (i) define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, or

- (ii) authorize boards to develop definitions of exceptionalities of pupils and to prescribe classes, groups or categories of exceptional pupils,

and require boards to employ such definitions or use such prescriptions as are established under subclause i or ii, as the case may be.

s. 10 (1),
par. 5,
re-enacted

- 3.—(1)** Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

- 5. governing the provision, establishment, organization and administration of,

- (i) special education programs,

- (ii) special education services, and

- (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6a of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

s. 10 (1),
par. 14,
subpar. iii,
re-enacted

- (2) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor:

- iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

s. 12,
amended

- 4.—(1)** Section 12 of the said Act is amended by adding thereto the following subsections:

Demonstra-
tion
schools

- (3a) Subject to the approval of the Lieutenant Governor in Council, the Minister may,

- (a) establish, maintain and operate one or more demonstration schools; or

SECTION 3.—Subsection 1. Paragraph 5 as re-enacted will enable regulations to be made to provide for a phasing-in of special education programs and services in an orderly fashion for all boards generally or for specific boards as circumstances realistically require leading to the complete implementation of special education programs and services by the 1st of September, 1985.

The paragraph as re-enacted clarifies the power to make regulations in respect of special education identification, placement and review committees of boards. This is consistent with the new definitions of “special education program” and “special education services” in section 1 of the Bill.

Subsection 2. Subparagraph iii of paragraph 14 of subsection 1 of section 10 now reads as follows:

iii. are placed in an approved home as defined in The Mental Hospitals Act or a detention and observation home established under The Provincial Courts Act.

The regulation making power is broadened so that regulations may be made governing the payment of the cost of education at elementary and secondary schools of pupils who are admitted to or are resident in a wider spectrum of facilities, homes and institutions.

SECTION 4.—Subsection 1. The amendment would enable the Minister to establish schools for pupils with learning disabilities and for whom a residential setting is required, to enter into an agreement with a university, for the operation of such schools and to make agreements with boards and certain other bodies for the secondment of teachers and other personnel for such schools.

Subsection 2. Clause *f* of section 1 of *The Provincial Schools Negotiations Act, 1975* now reads as follows:

(f) “school” means a school operated by,

(i) the Ministry of Correctional Services,

(ii) the Ministry of Health, or

(iii) the Ministry of Education,

but does not include the Ontario Teacher Education College, a summer course or a correspondence course.

The purpose of this section is to ensure that in the future the employment of teachers at a demonstration school is not the responsibility of the Provincial Schools Authority established under *The Provincial Schools Negotiations Act, 1975*, but rather will be a matter of negotiation with employers of teachers or of staff, or with such university or universities with which an agreement is reached for the provision of a demonstration school.

SECTION 5. Subsection 3 of section 20 of the Act now reads as follows:

- (3) *The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause b of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.*

The present subsection 3 provides that the fact that a child is blind, deaf or mentally handicapped is not of itself a cause to be excused from attendance at school if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children. The amendment removes this condition so that whether or not a child is eligible for admission to one of those schools, his blindness, deafness, or mental handicap is not of itself a cause for being excused from attendance at school.

SECTION 6. Section 34 of the Act now reads as follows:

- 34.—(1) *A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school.*
- (2) *The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section.*

- (b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem
1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out "such schools for the deaf or blind" in the third and fourth lines and inserting in lieu thereof "schools continued or established under this section". s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out "if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children" in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 34 of the said Act is repealed and the following substituted therefor: s. 34,
re-enacted

34.—(1) In this section, Interpre-
tation

(a) "board" includes The Metropolitan Toronto School Board;

(b) "pupil" includes a trainable retarded pupil;

(c) "school" includes a school or class for trainable retarded pupils.

(2) Where a principal considers that a pupil who attends his school is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction, or where the parent or guardian of a pupil considers that the pupil is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer, a principal and a legally qualified psychiatrist, none of whom is a person to whom the matter has been previously referred. Inability
to profit
by instruc-
tion

Inquiry
by
committee

(3) The committee referred to in subsection 2 shall,

- (a) inquire into the alleged inability of the pupil to profit by instruction;
- (b) inquire into the handicap of the pupil; and
- (c) determine whether the pupil can profit by instruction,

and the committee shall make a written report to the board of its determination.

Idem

(4) The committee shall, for the purposes of its inquiry, report any determination under subsection 3, study all existing reports in respect of the pupil, hear the teachers, the parent or guardian of the pupil, where reasonably possible, the pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the pupil, and of the pupil where he is an adult, obtain and consider in respect of the pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

Costs

(5) Any costs incurred in respect of an assessment or examination under this section, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board referred to in subsection 2.

Review

(6) Where the parent or guardian of a person in respect of whom a determination has been made under subsection 3 to be unable to profit by instruction or such person, where he is an adult,

- (a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by such instruction; and
- (b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 2 that shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 3, which subsection applies with necessary modifications to such a review.

Action
to be
taken by
committee

(7) Where a committee constituted in accordance with subsection 2 determines that a pupil is unable to profit by instruction, the board within whose jurisdiction the pupil resides shall,

(3) *Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,*

(a) a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or

(b) a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.

(4) *The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,*

(a) in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and

(b) in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

(5) *Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,*

(a) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies mutatis mutandis.

(6) *Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister.*

At present, a board has power to exclude a person from an elementary school if he is unable to profit from instruction by reason of mental or physical handicap. The section as re-enacted makes it possible for a board to exclude a pupil from any school, including a school for trainable retarded pupils, only where the committee has inquired into the alleged disability and made a determination that the pupil cannot profit from instruction because of a mental or a mental and one or more additional handicaps.

The amendment further requires that where a person is excluded under the provisions of section 34, the board shall assist the parent or guardian to locate the services and facilities required for the person, notify the Minister of the exclusion and of the assistance given and provide for an annual review of the exclusion until the person reaches the age of twenty-one years.

SECTION 7. Section 69 now reads as follows:

69.—(1) *In sections 69 to 78,*

- (a) *"committee" means an advisory committee on schools for trainable retarded children;*
- (b) *"divisional board" means a divisional board of education and includes The Metropolitan Toronto School Board;*
- (c) *"local association" means a parent's group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;*
- (d) *"school division" includes the Metropolitan Area as defined in The Municipality of Metropolitan Toronto Act.*

(2) *For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969.*

The new definition of "board" in section 69 has the effect of requiring all school boards in the province, except the boards of education in Metropolitan Toronto and The James Bay Lowlands Secondary School Board, to provide education for their trainable retarded pupils.

In Metropolitan Toronto, education for trainable retarded pupils continues to be the responsibility of The Metropolitan Toronto School Board. In the area of jurisdiction of The James Bay Lowlands Secondary School Board, education for the trainable retarded pupils will be provided by The Moose Factory Island District School Area Board, The Moosonee District School Area Board and The Moosonee Roman Catholic Separate School Board.

Subsection 2 is re-enacted to clarify that all the members of The Metropolitan Toronto School Board are trustees for the purposes of schools for trainable retarded pupils.

SECTION 8. Section 70 of the Act now reads as follows:

70.—(1) *Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75.*

(2) *A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils.*

- (a) exclude the pupil from school and assist the parent or guardian to locate services suited to the needs of the person;
- (b) forthwith notify the Minister of the exclusion and of the assistance given under clause a; and
- (c) provide for an annual review of the exclusion of such person until he attains the age of twenty-one years.

7. Section 69 of the said Act is repealed and the following substituted therefor: s. 69,
re-enacted

69.—(1) In sections 69 to 78, Interpre-
tation

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils. Metropolitan
Toronto
School
Board

8. Section 70 of the said Act is repealed and the following substituted therefor: s. 70,
re-enacted

70.—(1) Subject to subsection 2 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils, Provision
of
adequate
accommodation

(a) who are resident pupils of the board; and

(b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the language of instruction of the trainable retarded pupils.

Agreement
with other
board

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils.

Placement
and review

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement.

s. 71,
re-enacted

9. Section 71 of the said Act is repealed and the following substituted therefor:

Attendance
beyond
age 21

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years.

Admission
of other
trainable
retarded
pupils

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

s. 72 (1),
re-enacted

10. Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor:

Advisory
committee

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1a, establish an advisory committee on schools for trainable retarded pupils.

Idem

(1a) Where a divisional board establishes a committee under subsection 2 of section 178a, it may,

(a) discontinue the committee established under subsection 1; or

(b) continue the committee established under subsection 1 and appoint one of the members appointed under clause b of subsection 2 to the committee established under subsection 2 of section 178a.

- (3) *Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides.*

Subsection 1 is re-enacted to provide for the admission of pupils of boards referred to in section 69 to schools or classes for trainable retarded pupils where such placement is determined by a committee established under paragraph 5 of subsection 1 of section 10 and to require that the programs and services that are provided to such pupils are in accordance with the regulations and in the language of instruction of the trainable retarded pupils. At present, such pupils are admitted under section 75 of the Act. This section is now repealed (see section 11 of the Bill).

Subsection 2 is re-enacted to be complementary to the amendments to section 69 of the Act.

The amendment to subsection 3 provides that a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction is responsible for the placement and review of placement of trainable retarded pupils of the board that is paying the fees under an agreement provided for in subsection 2.

SECTION 9. Section 71 now reads as follows:

- 71.—(1) *Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.*
- (2) *Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1.*

Since section 75 is being repealed (see section 11 of the Bill) internal references to that section are being deleted.

Subsections 1 and 2, as re-enacted, provide for a trainable retarded pupil who attains the age of twenty-one years in the period January 1st to June 29th a right or entitlement to continue in school until the 30th day of June in the year in which he attains the age of twenty-one years.

Subsection 2, as re-enacted, is complementary to the provisions of subsection 3 of section 70 (see subsection 2 of section 8 of the Bill) in respect of trainable retarded pupils who wish to attend a trainable retarded school or class and who do not qualify to attend under subsection 1 of section 71.

Section 71 is now consistent with the provisions of the new section 69 of the Act.

SECTION 10. This amendment is complementary to the new section 178a that provides for the establishment of a special education advisory committee. A divisional board of education may decide to broaden the basis of representation on the committee established under section 72 or terminate the committee on schools for trainable retarded pupils and establish a committee under section 178a, or continue the advisory committee for trainable retarded pupils along with the advisory committee under section 178a. The Metropolitan Toronto School Board will retain its advisory committee for trainable retarded pupils.

The new subsection 1b permits a board, other than a board referred to in subsection 1, to establish an advisory committee on schools for trainable retarded pupils.

SECTION 11. The provision for an admissions board for schools or classes for trainable retarded pupils is removed.

Committees, provided in accordance with the regulations, will now be responsible for the placement and program review of exceptional pupils which by definition includes trainable retarded pupils (see section 8 of the Bill).

Section 76 is no longer required because each of the boards therein referred to will now be required to provide for its resident trainable retarded pupils.

SECTION 12. Section 77 now reads as follows:

77.—(1) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*

(2) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*

(3) *Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations.*

Subsection 1 is re-enacted to be consistent with the changes made in section 69 of the Act.

Subsections 2 and 3 are repealed because the payments of fees will now be provided for in an agreement made under subsection 2 of section 70 of the Act.

SECTION 13. The changes to section 78 of the Act are complementary to the changes in section 69 of the Act.

SECTION 14. The amendment makes mandatory the provision by a board of special education programs and services for its exceptional pupils in the language of instruction in which they would ordinarily have been instructed and requires such programs and services to be fully phased in in accordance with the regulations by September 1, 1985.

SECTION 15. Paragraph 38 of subsection 1 of section 147 now reads as follows:

38. *employ and pay teachers to conduct an education program in a juvenile detention and observation home established under The Provincial Courts Act, a psychiatric facility as defined in the regulations and a facility designated under The Developmental Services Act, 1974 in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.*

(1b) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee. Idem

11. Sections 75 and 76 of the said Act are repealed. ss. 75, 76,
repealed

12. Section 77 of the said Act is repealed and the following substituted therefor: s. 77,
re-enacted

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations. Fees for
non-resident
pupils of
divisional
boards

13.—(1) Subsection 2 of section 78 of the said Act is amended by striking out “but not in a school division” in the second line. s. 78 (2),
amended

(2) Subsection 3 of the said section 78 is amended by striking out “divisional” in the sixth line and in the seventh line. s. 78 (3),
amended

14. Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph: s. 146,
amended

6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the language of instruction of such pupils. special
education
programs
and
services

15. Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor: s. 147 (1),
par. 38,
re-enacted

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith. programs
in
detention
homes

16. Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor: s. 163 (2),
re-enacted

(2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario Idem

R.S.O. 1970,
c. 378
1974, c. 2
R.S.O. 1970,
c. 269
1978, c. 67

School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, a facility designated under *The Developmental Services Act, 1974*, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act, 1978*.

s. 178a,
enacted

- 17.** The said Act is further amended by adding thereto the following section:

SPECIAL EDUCATION ADVISORY COMMITTEE

Interpre-
tation

178a.—(1) In this section,

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) "committee" means a special education advisory committee;
- (c) "local association" means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

Advisory
committee

(2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of,

- (a) one representative from each of twelve local associations selected by the board from among the local associations in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;

The amendment extends the kinds of facilities, institutions, homes and hospitals in which a board may provide teachers and educational assistance to carry out an educational program.

SECTION 16. The amendment adds demonstration schools for pupils with severe learning disabilities, crippled children's treatment centres and facilities designated under *The Children's Mental Health Services Act, 1978* to the list of facilities to and from which a board may transport its resident pupils.

SECTION 17. The section provides for the establishment of advisory committees to make recommendations to school boards in respect of the establishment and development by the boards of special education programs and services. The committees are mandatory for the larger boards and permissive for smaller boards and in the case of boards that already have an advisory committee on trainable retarded pupils, such boards are authorized to comply with this section by enlarging and altering the representation on such committee to accord with the requirements of this section.

- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and

- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

(3) Each of the persons appointed under subsection 2 who are ^{Idem} not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized.

(4) Section 202 applies with necessary modifications to a ^{Application of s. 202} member of a committee established under subsection 2.

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the ^{Members of committee} board of education elected by separate school electors.

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of ^{Local associations} clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69.

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy ^{Requirements for advisory committee} the requirements for a committee under this section where,

- (a) a representative from each of twelve local associations selected by the board, none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members

appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

Recommendations

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board.

Application of ss. 72 (5, 6), 73 and 74

(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2.

Members of committee

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board may appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board.

Commencement

18. This Act comes into force on the day it receives Royal Assent.

Short title

19. The short title of this Act is *The Education Amendment Act, 1980*.

An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Education Act, 1974

THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “exceptional pupil” is required because of the use of this term throughout the Act.

The terms “special education program” and “special education services” were described previously only in the Regulation—Elementary and Secondary Schools—General. With the revision of that Regulation, it is now necessary to have a clear definition of what is meant by these terms and since the terms are used in the Act, the definitions are now included in the Act. Special education services include aides, volunteers and professional personnel.

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs: s. 1 (1),
amended

20a. “exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to need placement in a special education program by a committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10, of the board,

(i) of which he is a resident pupil,

(ii) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or

(iii) to which the cost of education in respect of the pupil is payable by the Minister;

62a. “special education program” means, in respect of an exceptional pupil, an educational program that is based on and modified by the results of continuous assessment and evaluation and that includes a plan containing specific objectives and an outline of educational services that meets the needs of the exceptional pupil;

62b. “special education services” means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

s. 1 (1),
par. 66,
re-enacted

- (2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. "trainable retarded child" or "trainable retarded pupil" means a pupil who is six or more years of age, but less than twenty-one years of age, whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

s. 8,
amended

2. Section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 72, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following subsection:

Identification
programs
and special
education
programs
and services

(1a) The Minister shall ensure that all children in Ontario have available to them a free and appropriate public education that, for exceptional children, emphasizes special education programs and services that meet their unique needs, and that the rights of exceptional children and their parents or guardians are protected, and for these purposes the Minister shall,

- (a) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils, and shall prescribe standards in accordance with which such procedures be implemented; and
- (b) in respect of special education programs and services, define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause.

s. 10 (1),
par. 5,
re-enacted

- 3.—(1) Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

5. governing the provision, establishment, organization and administration of,

- (i) special education programs,
- (ii) special education services, and
- (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6a of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

Subsection 2. Paragraph 66 of subsection 1 of section 1 of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. *“trainable retarded child” means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children.*

The purpose of the amendment is to enable persons of compulsory school age to attend a school for trainable retarded pupils until they attain the age of twenty-one years. Heretofore the upper age limit was set at eighteen years of age.

SECTION 2. The purpose of the new subsection 1a is to enable the Minister to require elementary school-boards to implement procedures for the early identification of the needs and abilities of pupils.

It is considered that the exceptionalities of pupils are such that universally accepted definitions thereof may not be possible. It is, however, important for uniformity of approach to the education of exceptional pupils by the school boards in Ontario that there be consistency in the terminology that is used by those boards. The power granted to the Minister by subsection 1a ensures that in so far as it may be possible those concerned in the education of exceptional pupils will be working with the same terms of reference.

SECTION 3.—Subsection 1. Paragraph 5 as re-enacted will enable regulations to be made to provide for a phasing-in of special education programs and services in an orderly fashion for all boards generally or for specific boards as circumstances realistically require leading to the complete implementation of special education programs and services by the 1st of September, 1985.

The paragraph as re-enacted clarifies the power to make regulations in respect of special education identification, placement and review committees of boards. This is consistent with the new definitions of “special education program” and “special education services” in section 1 of the Bill.

Subsection 2. The new paragraph 5a provides for the making of a regulation by which a parent or guardian of a pupil may appeal the placement of the pupil in a special education program.

Subsection 3. Subparagraph iii of paragraph 14 of subsection 1 of section 10 now reads as follows:

iii. are placed in an approved home as defined in The Mental Hospitals Act or a detention and observation home established under The Provincial Courts Act.

The regulation making power is broadened so that regulations may be made governing the payment of the cost of education at elementary and secondary schools of pupils who are admitted to or are resident in a wider spectrum of facilities, homes and institutions.

SECTION 4.—Subsection 1. The amendment would enable the Minister to establish schools for pupils with learning disabilities and for whom a residential setting is required, to enter into an agreement with a university, for the operation of such schools and to make agreements with boards and certain other bodies for the secondment of teachers and other personnel for such schools.

Subsection 2. Clause f of section 1 of *The Provincial Schools Negotiations Act, 1975* now reads as follows:

(f) "school" means a school operated by,

(i) the Ministry of Correctional Services,

(ii) the Ministry of Health, or

(iii) the Ministry of Education,

but does not include the Ontario Teacher Education College, a summer course or a correspondence course.

The purpose of this section is to ensure that in the future the employment of teachers at a demonstration school is not the responsibility of the Provincial Schools Authority established under *The Provincial Schools Negotiations Act, 1975*, but rather will be a matter of negotiation with employers of teachers or of staff, or with such university or universities with which an agreement is reached for the provision of a demonstration school.

SECTION 5. Subsection 3 of section 20 of the Act now reads as follows:

(3) *The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause b of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.*

The present subsection 3 provides that the fact that a child is blind, deaf or mentally handicapped is not of itself a cause to be excused from attendance at school if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children. The amendment removes this condition so that whether or not a child is eligible for admission to one of those schools, his blindness, deafness, or mental handicap is not of itself a cause for being excused from attendance at school.

- (2) Subsection 1 of the said section 10 is amended by adding thereto the following paragraph: s. 10 (1),
amended

5a. governing procedures with respect to parents or guardians for appeals in respect of placements of exceptional pupils in special education programs. placement
appeals

- (3) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor: s. 10 (1),
par. 14,
subpar. iii,
re-enacted

iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

- 4.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12,
amended

(3a) Subject to the approval of the Lieutenant Governor in Council, the Minister may, Demonstration
schools

(a) establish, maintain and operate one or more demonstration schools; or

(b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem
1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out “such schools for the deaf or blind” in the third and fourth lines and inserting in lieu thereof “schools continued or established under this section”. s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out “if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children” in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 32 of the said Act is amended by adding thereto the following subsections: s. 32,
amended

Application
of subss.
1 and 4

(5) Subsections 1 and 4 apply with necessary modifications to a trainable retarded child in respect of a school section on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

Application
of subss.
2 and 4

(6) Subsections 2 and 4 apply with necessary modifications to a trainable retarded child in respect of a separate school zone on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

s. 34,
re-enacted

7. Section 34 of the said Act is repealed and the following substituted therefor:

Interpre-
tation

34.—(1) In this section and the regulations,

(a) “appropriate special education program and services” means, in addition to all other relevant considerations,

- (i) an individual education plan for the particular pupil,
- (ii) proper assessments of the pupil’s needs,
- (iii) an opportunity for the pupil to benefit,
- (iv) implementation of a program in conformity with the pre-determined individual education plan,
- (v) periodic evaluation,
- (vi) the suitability of the program and services equivalent to that offered pupils who are not exceptional pupils,
- (vii) a proper educational setting,
- (viii) the offering of the program and services in the least restrictive manner possible, and
- (ix) adherence to the code of procedure set out in subsection 14;

(b) “Board” means the Ontario Special Education Board;

(c) “hard to serve pupil” means an exceptional pupil who suffers from a mental handicap or a mental and one or more additional handicaps and for whom care and treatment are primary educational needs that cannot be met by any board;

SECTION 6. Under section 37 of the Act a trainable retarded child is qualified to be a resident pupil in respect of the secondary school district of a divisional board of education. When, pursuant to an Order in Council made under subsection 4 of section 70 of the Act, as enacted by section 11 of the Bill, a board other than a divisional board of education becomes responsible for the education of trainable retarded pupils it is proposed that such a pupil would, having regard to the school support of his parent or guardian, become qualified to be a resident pupil in respect of the public school section or separate school zone for the board that the pupil is to attend. The subsections added to section 32 of the Act produce that result when taken in conjunction with the amendment made to subsection 3 of section 37 of the Act as provided in section 8 of the Bill.

SECTION 7. Section 34 of the Act now reads as follows:

- 34.—(1) *A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school.*
- (2) *The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section.*
- (3) *Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,*
- (a) *a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or*
- (b) *a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.*
- (4) *The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,*
- (a) *in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and*
- (b) *in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,*

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

(5) Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,

(a) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies mutatis mutandis.

(6) Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister.

At present, a board has power to exclude a person from an elementary school if he is unable to profit from instruction by reason of mental or physical handicap. The section as re-enacted implements two principles:

1. A duty is placed on boards to provide an appropriate educational program for all children.
2. An appeal is provided to the Ontario Special Education Board from all decisions of placement committees.

(d) "placement committee" means a committee of a board established to make and review placements of exceptional pupils.

(2) Where a teacher, principal, parent or pupil considers that a pupil is an exceptional pupil, that pupil shall be referred to a placement committee.

Placement
committee

(3) A placement committee shall,

Duties

- (a) determine whether a pupil is an exceptional pupil;
- (b) determine, designate or design an appropriate special education program and services for the exceptional pupil;
- (c) review annually the special education program and services offered each exceptional pupil; and
- (d) refer a hard to serve pupil for whom no appropriate program and services are available to the Board.

(4) A parent and pupil may appeal to the Board as of right any determination of a placement committee.

Appeal

(5) The Lieutenant Governor in Council shall establish the Ontario Special Education Board.

Ontario
Special
Education
Board

(6) The Board shall be composed of a chairman, one or more vice-chairmen and as many members equal in number representative of boards and provincial associations or organizations of parents as the Lieutenant Governor in Council considers proper, all of whom shall be appointed by the Lieutenant Governor in Council.

Composition

(7) The chairman or a vice-chairman, one member representative of the boards and one member representative of provincial associations or organizations of parents constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board.

Quorum

(8) The Board may sit in two or more divisions simultaneously so long as a quorum of the Board is present in each division.

Divisions
of the
Board

(9) The Board shall exercise such powers and perform such duties as are conferred or imposed upon it by or under this Act.

Powers
and duties
of Board

(10) Without limiting the generality of subsection 9, the Board shall,

Idem

- (a) hear and determine appeals by parents and pupils from any decision of the placement committee;
- (b) determine, designate or design an appropriate special education program and services for each hard to serve pupil referred to it by a placement committee; and
- (c) review annually the appropriate special education program and services offered to each hard to serve pupil until he attains the age of twenty-one years.

Idem

(11) In the exercise of its powers under clauses *b* and *c* of subsection 10, the Board, with the consent of the parents, may obtain and consider in respect of the hard to serve pupil the report of an assessment conducted by a person considered by the Board to be competent for the purpose, and any costs incurred in respect of such assessment or in respect of the obtaining of other evidence required by the Board shall be paid by the Board.

Powers

(12) Where, after a hearing, the Board has reviewed the decision of a placement committee, the Board may,

- (a) affirm the decision;
- (b) rescind the decision and direct the placement committee to make any other decision that the placement committee is authorized to make under this Act and the regulations and as the Board considers proper; or
- (c) rescind the decision and determine, designate or design an appropriate special education program and services for the exceptional pupil.

Purchase
of service


(13) In the exercise of its powers under clauses *b* and *c* of subsection 10 and clause *c* of subsection 12, the Board may order a board to purchase a special education program and services from any other board, from any centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act, and, if necessary, from the private sector.

Application
of
1971, c. 47

(14) *The Statutory Powers Procedure Act, 1971* applies to all proceedings of the Board.

Code of
procedure

(15) Without limiting the generality of subsection 14, the following code of procedure shall apply to all proceedings of a placement committee and of the Board:


 SECTION 8. The amendment of subsection 3 of section 37 of the Act is complementary to the amendment to section 32 of the Act as provided in section 6 of the Bill.

SECTION 9. Subsection 1 of section 45 of the Act now reads as follows:

- (1) Where, on the 31st day of December, 1968, a pupil was enrolled in a public, separate or secondary school that he had a right to attend, and the school on and after the 1st day of January, 1969, is situated in a school division or a combined separate school zone, as the case may be, other than the school division or the combined separate school zone in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school.*

The subsection has ceased to have effect because of the passage of time and is repealed.

The new subsection 1 enables a trainable retarded pupil to elect to continue to attend the trainable retarded school or class operated by a divisional board that he has been attending notwithstanding the board of which he is qualified to be a resident pupil commences to operate or provide a trainable retarded school or class.

Where the pupil so elects, the board of which he is qualified to be a resident pupil is required to pay fees to the board that operates the school or class that he attends. 

1. Parents and pupils shall be given reasonable notice in writing of the meeting of the placement committee or the hearing of the Board.
2. The notice referred to in paragraph 1 shall include,
 - (a) a statement of the time, place and purpose of the placement committee meeting or Board hearing;
 - (b) a written description of the individual special education program and services proposed for the pupil;
 - (c) a written description of any alternative special program and services that are available; and
 - (d) a statement of the rights of parents and pupils to inspect all relevant reports and documents, to obtain an independent assessment, and to make submissions at the meeting or hearing.
3. Parents and pupils shall have an opportunity to examine and cross-examine witnesses, present arguments and make submissions.
4. Decisions of the placement committee and the Board shall be in writing, and shall include,
 - (a) a statement of the individual special educational program and services proposed by the board, parent or pupil and of any other available alternative special program or services;
 - (b) a statement of the evidence upon which the decision was based; and
 - (c) a statement of the reasons for the decision.

8. Subsection 3 of section 37 of the said Act is amended by adding at the end thereof "until such date as may be designated by the Lieutenant Governor in Council or the 31st day of December, 1984, whichever occurs first". s. 37 (3),
amended

9. Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor: s. 45 (1),
re-enacted

(1) Where, on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, a trainable retarded pupil was enrolled in a trainable retarded school or class that he had a right to attend and, Right
of certain
pupils to
attend school
in another
jurisdiction

- (a) the parent or guardian of the pupil is a supporter of a board other than the board that operates the trainable retarded school or class that the pupil attends; and
- (b) the board of which the pupil is qualified to be a resident pupil, provides instruction for trainable retarded pupils or has entered into an agreement for the provision of such instruction with a board other than the board that on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, operated the trainable retarded school or class in which the pupil was enrolled,

the trainable retarded pupil has, in addition to any other right that he may have under this Act, the right to attend the trainable retarded school or class in which he was enrolled on the 31st day of December, 1984, or such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, until the last school day in June in the year in which he attains the age of twenty-one years, and where such pupil elects to continue to attend the trainable retarded school or class in which he was enrolled, the board of which he is qualified to be a resident pupil shall pay to the divisional board that operates such school or class a fee calculated in accordance with the regulations.

s. 69,
re-enacted

10. Section 69 of the said Act is repealed and the following substituted therefor:

Interpre-
tation

69.—(1) In sections 69 to 78,

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

Metropolitan
Toronto
School
Board

- (2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils.

s. 70,
re-enacted

11. Section 70 of the said Act is repealed and the following substituted therefor:

SECTION 10. Section 69 now reads as follows:

69.—(1) *In sections 69 to 78,*

- (a) *“committee” means an advisory committee on schools for trainable retarded children;*
 - (b) *“divisional board” means a divisional board of education and includes The Metropolitan Toronto School Board;*
 - (c) *“local association” means a parent’s group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;*
 - (d) *“school division” includes the Metropolitan Area as defined in The Municipality of Metropolitan Toronto Act.*
- (2) *For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969.*

The new definition of “board” in section 69 has the effect of requiring all school boards in the province, except the boards of education in Metropolitan Toronto and The James Bay Lowlands Secondary School Board, to provide education for their trainable retarded pupils.

In Metropolitan Toronto, education for trainable retarded pupils continues to be the responsibility of The Metropolitan Toronto School Board. In the area of jurisdiction of The James Bay Lowlands Secondary School Board, education for the trainable retarded pupils will be provided by The Moose Factory Island District School Area Board, The Moosonee District School Area Board and The Moosonee Roman Catholic Separate School Board.

Subsection 2 is re-enacted to clarify that all the members of The Metropolitan Toronto School Board are trustees for the purposes of schools for trainable retarded pupils.

SECTION 11. Section 70 of the Act now reads as follows:

- 70.—(1) *Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75.*
- (2) *A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils.*

- (3) *Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides.*

Subsection 1 is re-enacted to provide for the admission of pupils of boards referred to in section 69 to schools or classes for trainable retarded pupils where such placement is determined by a committee established under paragraph 5 of subsection 1 of section 10 and to require that the programs and services that are provided to such pupils are in accordance with the regulations and in the language of instruction of the trainable retarded pupils. At present, such pupils are admitted under section 75 of the Act. This section is now repealed (see section 14 of the Bill).

Subsection 2 is re-enacted to be complementary to the amendments to section 69 of the Act.

The amendment to subsection 3 provides that a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction is responsible for the placement and review of placement of trainable retarded pupils of the board that is paying the fees under an agreement provided for in subsection 2.

Subsection 4 provides that a board that was not authorized to operate or provide a school or class for trainable retarded children shall operate or provide such a school or class on such date as the Lieutenant Governor in Council may designate or on the 1st day of January, 1985 if such a designation is not made

SECTION 12. Section 71 now reads as follows:

- 71.—(1) *Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.*
- (2) *Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1.*

Since section 75 is being repealed (see section 14 of the Bill) internal references to that section are being deleted.

Subsections 1 and 2, as re-enacted, provide for a trainable retarded pupil who attains the age of twenty-one years in the period January 1st to June 29th a right or entitlement to continue in school until the 30th day of June in the year in which he attains the age of twenty-one years.

Subsection 2, as re-enacted, is complementary to the provisions of subsection 3 of section 70 (see subsection 2 of section 8 of the Bill) in respect of trainable retarded pupils who wish to attend a trainable retarded school or class and who do not qualify to attend under subsection 1 of section 71.

Section 71 is now consistent with the provisions of the new section 69 of the Act.

70.—(1) Subject to subsections 2 and 4 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils, Provision of adequate accommodation

(a) who are exceptional pupils of the board; and

(b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils. Agreement with other board

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement. Placement and review

(4) Subsections 1 and 2 apply on the 1st day of January, 1985 or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, to a public school board, a Roman Catholic separate school board and a Protestant separate school board. Application of subss. 1 and 2

12. Section 71 of the said Act is repealed and the following substituted therefor: s. 71, re-enacted

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years. Attendance beyond age 21

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the Admission of other trainable retarded pupils

right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

s. 72 (1),
re-enacted

- 13.** Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor:

Advisory
committee

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1*a*, establish an advisory committee on schools for trainable retarded pupils.

Idem

(1*a*) Where a divisional board establishes a committee under subsection 2 of section 178*a*, it may,

- (a) discontinue the committee established under subsection 1; or
- (b) continue the committee established under subsection 1 and appoint one of the members appointed under clause *b* of subsection 2 to the committee established under subsection 2 of section 178*a*.

Idem

(1*b*) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee.

ss. 75, 76,
repealed

- 14.** Sections 75 and 76 of the said Act are repealed.

s. 77,
re-enacted

- 15.** Section 77 of the said Act is repealed and the following substituted therefor:

Fees for
non-resident
pupils of
divisional
boards

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.

s. 78 (2),
amended

- 16.**—(1) Subsection 2 of section 78 of the said Act is amended by striking out “but not in a school division” in the second line.

s. 78 (3),
amended

- (2) Subsection 3 of the said section 78 is amended by striking out “divisional” in the sixth line and in the seventh line.

s. 146,
amended

- 17.** Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph:

SECTION 13. This amendment is complementary to the new section 178a that provides for the establishment of a special education advisory committee. A divisional board of education may decide to broaden the basis of representation on the committee established under section 72 or terminate the committee on schools for trainable retarded pupils and establish a committee under section 178a, or continue the advisory committee for trainable retarded pupils along with the advisory committee under section 178a. The Metropolitan Toronto School Board will retain its advisory committee for trainable retarded pupils.

The new subsection 1b permits a board, other than a board referred to in subsection 1, to establish an advisory committee on schools for trainable retarded pupils.

SECTION 14. The provision for an admissions board for schools or classes for trainable retarded pupils is removed.

Committees, provided in accordance with the regulations, will now be responsible for the placement and program review of exceptional pupils which by definition includes trainable retarded pupils (see section 11 of the Bill).

Section 76 is no longer required because each of the boards therein referred to will now be required to provide for its resident trainable retarded pupils.

SECTION 15. Section 77 now reads as follows:

- 77.—(1) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*
- (2) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*
- (3) *Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations.*

Subsection 1 is re-enacted to be consistent with the changes made in section 69 of the Act.

Subsections 2 and 3 are repealed because the payments of fees will now be provided for in an agreement made under subsection 2 of section 70 of the Act.

SECTION 16. The changes to section 78 of the Act are complementary to the changes in section 69 of the Act.

SECTION 17. The amendment makes mandatory the provision by a board of special education programs and services for its exceptional pupils in the language of instruction in which they would ordinarily have been instructed and requires such programs and services to be fully phased in in accordance with the regulations by September 1, 1985.

SECTION 18. Paragraph 38 of subsection 1 of section 147 now reads as follows:

38. *employ and pay teachers to conduct an education program in a juvenile detention and observation home established under The Provincial Courts Act, a psychiatric facility as defined in the regulations and a facility designated under The Developmental Services Act, 1974 in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.*

The amendment extends the kinds of facilities, institutions, homes and hospitals in which a board may provide teachers and educational assistance to carry out an educational program.

SECTION 19. The amendment adds demonstration schools for pupils with severe learning disabilities, crippled children's treatment centres and facilities designated under *The Children's Mental Health Services Act, 1978* to the list of facilities to and from which a board may transport its resident pupils.

SECTION 20. The section provides for the establishment of advisory committees to make recommendations to school boards in respect of the establishment and development by the boards of special education programs and services. The committees are mandatory for the larger boards and permissive for smaller boards and in the case of boards that already have an advisory committee on trainable retarded pupils, such boards are authorized to comply with this section by enlarging and altering the representation on such committee to accord with the requirements of this section.

- 6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be. special education programs and services

18. Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor: s. 147 (1), par. 38, re-enacted

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith. programs in detention homes

19. Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor: s. 163 (2), re-enacted

(2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, a facility designated under *The Developmental Services Act, 1974*, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act, 1978*. Idem
R.S.O. 1970, c. 378
R.S.O. 1970, c. 269
1978, c. 67

20. The said Act is further amended by adding thereto the following section: s. 178a, enacted

SPECIAL EDUCATION ADVISORY COMMITTEE

178a.—(1) In this section,

Interpretation

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) "committee" means a special education advisory committee;

- (c) "local association" means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

Advisory
committee

(2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of,



- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;



- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;

- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and

- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

Idem

(3) Each of the persons appointed under subsection 2 who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized.

Application
of s. 202

(4) Section 202 applies with necessary modifications to a member of a committee established under subsection 2.

Members
of
committee

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the board of education elected by separate school electors.

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69. Local associations

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy the requirements for a committee under this section where, Requirements for advisory committee

- (a) a representative from each of the local associations, not to exceed twelve, and none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board. Recommendations

(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2. Application of ss. 72 (5, 6), 73 and 74

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board shall appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board. Members of committee

(11) For the purposes of subsections 2 and 7, where there are more than twelve local associations in the area of jurisdiction of Selection by board

the board, the board shall select the twelve local associations that shall be represented.

s. 205 (3),
amended

- 21.** Subsection 3 of section 205 of the said Act is amended by inserting after "1" in the third line "for" and by adding thereto the following clauses:

- (a) where there is no designation by the Lieutenant Governor in Council under clause *b*, the years 1981, 1982, 1983 and 1984 and commencing with the year 1985 and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1; or
- (b) where there is a designation by the Lieutenant Governor in Council, the year 1981 and such year or years as may be designated by the Lieutenant Governor in Council and commencing with the year designated by the Lieutenant Governor in Council and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1.

s. 271a,
enacted

- 22.** The said Act is further amended by adding thereto the following section:

PART XI-A

TRANSITIONAL PROVISIONS

Date and
scope of
designation


271a.—(1) Where the Lieutenant Governor in Council designates a date for the purposes of subsections 5 and 6 of section 32, subsection 3 of section 37, subsection 1 of section 45 and subsection 3 of section 205 or any of them, such designation may have general application or may relate to such board or boards as may be set out in the designation.

Application
of s. 53 (5)

(2) Where the Lieutenant Governor in Council designates a date for the purposes of subsection 5 of section 32 and subsection 3 of section 205 in respect of a divisional board, subsection 5 of section 53 ceases to apply to such divisional board.


Application
and
operation
of s. 37 (4)

(3) Effective the date designated by the Lieutenant Governor in Council for the purposes of subsection 3 of section 37, or the 31st day of December, 1984, whichever occurs first, in relation to The Metropolitan Separate School Board and The Metropolitan Toronto School Board, subsection 4 of section 37 ceases to operate and the cost of operation of schools for trainable retarded children operated by The Metropolitan Toronto School Board shall be included in the estimates of such board for public elementary school purposes.

 SECTION 21. Because divisional boards of education have operated or provided schools or classes for trainable retarded children whose parents or guardians are Roman Catholic separate school supporters, the expenditures have been met by grants and local levy for secondary school purposes. In the future when a board becomes authorized by Order of the Lieutenant Governor in Council to operate or provide such schools or classes, expenditures will be met by grants and local levy for elementary school purposes. Divisional boards of education that are affected by any such Order will also levy funds for the trainable retarded schools or classes that they operate for public school purposes and not for secondary school purposes.

SECTION 22. Subsection 1 of section 271a permits the Lieutenant Governor in Council to designate a single date upon which the provisions set out shall apply to all boards or to specify the board or boards to which the provisions apply and the respective dates upon which the provisions will have application.

All the members of a divisional board of education have been trustees for the purposes of schools for trainable retarded pupils. Subsection 2 of section 271a has the effect of providing that at such time as a Roman Catholic separate school board that has jurisdiction in all or part of the area of jurisdiction of a divisional board assumes responsibility for the provision of trainable retarded education, the members of the divisional board elected by public school electors will become trustees for the purposes of its schools for trainable retarded pupils except where matters relative thereto do not affect such schools exclusively.

The Metropolitan Toronto School Board now operates schools for trainable retarded pupils of Metropolitan Toronto. Subsection 3 of section 271a provides that when The Metropolitan Separate School Board commences the operation of such schools for its trainable retarded pupils, The Metropolitan Toronto School Board shall include the costs of operation of its trainable retarded schools in its estimates for public school purposes rather than in its estimates for secondary school purposes. 

- 23.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 24.** The short title of this Act is *The Education Amendment Act, 1980*. Short title

An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

June 17th, 1980

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

(Reprinted as amended by the
Social Development Committee)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Education Act, 1974

**THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities**

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1.—Subsection 1. A definition of “exceptional pupil” is required because of the use of this term throughout the Act.

The terms “special education program” and “special education services” were described previously only in the Regulation—Elementary and Secondary Schools—General. With the revision of that Regulation, it is now necessary to have a clear definition of what is meant by these terms and since the terms are used in the Act, the definitions are now included in the Act. Special education services include aides, volunteers and professional personnel.

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs:

20a. “exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to need placement in a special education program by a committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10, of the board,

- (i) of which he is a resident pupil,
- (ii) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or
- (iii) to which the cost of education in respect of the pupil is payable by the Minister;

62a. “special education program” means, in respect of an exceptional pupil, an educational program that is based on and modified by the results of continuous assessment and evaluation and that includes a plan containing specific objectives and an outline of educational services that meets the needs of the exceptional pupil;

62b. “special education services” means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

s. 1 (1),
par. 66,
re-enacted

- (2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. "trainable retarded child" or "trainable retarded pupil" means an exceptional pupil whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

s. 8,
amended

2. Section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 72, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following subsection:

Identification
programs
and special
education
programs
and services

(1a) The Minister shall ensure that all exceptional children in Ontario have available to them, in accordance with this Act and the appropriate regulations, special education programs and special education services without payment of fees by parents or guardians resident in Ontario, and shall provide for the parents or guardians to appeal the appropriateness of the special education placement, and for these purposes the Minister shall,

- (a) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils, and shall prescribe standards in accordance with which such procedures be implemented; and
- (b) in respect of special education programs and services, define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause.

s. 10 (1),
par. 5,
re-enacted

- 3.—(1) Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

5. governing the provision, establishment, organization and administration of,

- (i) special education programs,
- (ii) special education services, and
- (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6a of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

Subsection 2. Paragraph 66 of subsection 1 of section 1 of the Act now reads as follows:

1.—(1) *In this Act and the regulations, except where otherwise provided in the Act or regulations,*

66. *“trainable retarded child” means a child whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded children.*

The purpose of the amendment is to both lower and raise the age limit for attendance at a school for trainable retarded pupils. Heretofore the upper age limit was set at eighteen years of age.

SECTION 2. The purpose of the new subsection 1a is to enable the Minister to require elementary school boards to implement procedures for the early identification of the needs and abilities of pupils.

It is considered that the exceptionalities of pupils are such that universally accepted definitions thereof may not be possible. It is, however, important for uniformity of approach to the education of exceptional pupils by the school boards in Ontario that there be consistency in the terminology that is used by those boards. The power granted to the Minister by subsection 1a ensures that in so far as it may be possible those concerned in the education of exceptional pupils will be working with the same terms of reference.

SECTION 3.—Subsection 1. Paragraph 5 as re-enacted will enable regulations to be made to provide for a phasing-in of special education programs and services in an orderly fashion for all boards generally or for specific boards as circumstances realistically require leading to the complete implementation of special education programs and services by the 1st of September, 1985.

The paragraph as re-enacted clarifies the power to make regulations in respect of special education identification, placement and review committees of boards. This is consistent with the new definitions of “special education program” and “special education services” in section 1 of the Bill.

Subsection 2. The new paragraph 5a provides for the making of a regulation by which a parent or guardian of a pupil may appeal the identification of the pupil as an exceptional pupil and the placement of the pupil in a special education program.

Subsection 3. Subparagraph iii of paragraph 14 of subsection 1 of section 10 now reads as follows:

- iii. are placed in an approved home as defined in The Mental Hospitals Act or a detention and observation home established under The Provincial Courts Act.*

The regulation making power is broadened so that regulations may be made governing the payment of the cost of education at elementary and secondary schools of pupils who are admitted to or are resident in a wider spectrum of facilities, homes and institutions.

SECTION 4.—Subsection 1. The amendment would enable the Minister to establish schools for pupils with learning disabilities and for whom a residential setting is required, to enter into an agreement with a university, for the operation of such schools and to make agreements with boards and certain other bodies for the secondment of teachers and other personnel for such schools.

Subsection 2. Clause f of section 1 of *The Provincial Schools Negotiations Act, 1975* now reads as follows:

(f) "school" means a school operated by,

- (i) the Ministry of Correctional Services,*
- (ii) the Ministry of Health, or*
- (iii) the Ministry of Education,*

but does not include the Ontario Teacher Education College, a summer course or a correspondence course.

The purpose of this section is to ensure that in the future the employment of teachers at a demonstration school is not the responsibility of the Provincial Schools Authority established under *The Provincial Schools Negotiations Act, 1975*, but rather will be a matter of negotiation with employers of teachers or of staff, or with such university or universities with which an agreement is reached for the provision of a demonstration school.

SECTION 5. Subsection 3 of section 20 of the Act now reads as follows:

- (3) The fact that a child is blind, deaf or mentally handicapped is not of itself an unavoidable cause under clause b of subsection 2 if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children.*

The present subsection 3 provides that the fact that a child is blind, deaf or mentally handicapped is not of itself a cause to be excused from attendance at school if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children. The amendment removes this condition so that whether or not a child is eligible for admission to one of those schools, his blindness, deafness, or mental handicap is not of itself a cause for being excused from attendance at school.

- (2) Subsection 1 of the said section 10 is amended by adding thereto the following paragraph: s. 10 (1),
amended

5a. governing procedures with respect to parents or guardians for appeals in respect of identification and placement of exceptional pupils in special education programs. identification
and
placement
appeals

- (3) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor: s. 10 (1),
par. 14,
subpar. iii,
re-enacted

iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

- 4.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12,
amended

(3a) Subject to the approval of the Lieutenant Governor in Council, the Minister may, Demonstration
schools

- (a) establish, maintain and operate one or more demonstration schools; or
- (b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem
1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out “such schools for the deaf or blind” in the third and fourth lines and inserting in lieu thereof “schools continued or established under this section”. s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out “if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children” in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 32 of the said Act is amended by adding thereto the following subsections: s. 32,
amended

Application
of subss.
1 and 4

(5) Subsections 1 and 4 apply with necessary modifications to a trainable retarded child in respect of a school section on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

Application
of subss.
2 and 4

(6) Subsections 2 and 4 apply with necessary modifications to a trainable retarded child in respect of a separate school zone on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

s. 34,
re-enacted

7. Section 34 of the said Act is repealed and the following substituted therefor:

Interpre-
tation



34.—(1) In this section,

(a) “board” includes The Metropolitan Toronto School Board;

(b) “hard to serve pupil” means a pupil who, under this section, is determined to be unable to profit by instruction offered by a board due to a mental handicap or a mental and one or more additional handicaps;

(c) “school” includes a school or class for trainable retarded pupils.

Inability
to profit
by
instruction

(2) Where a principal considers that an exceptional pupil who attends his school is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, or where the parent or guardian of a pupil considers that the pupil is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer, a principal and a legally qualified medical practitioner who has expertise in respect of the mental or other handicap of the pupil, none of whom is a person to whom the matter has been previously referred.

Inquiry
by
committee

(3) The committee referred to in subsection 2 shall,

(a) in accordance with subsection 4, inquire into the alleged inability of the pupil to profit by instruction offered by the board;

(b) inquire into the handicap or handicaps of the pupil; and

SECTION 6. Under section 37 of the Act a trainable retarded child is qualified to be a resident pupil in respect of the secondary school district of a divisional board of education. When, pursuant to an Order in Council made under subsection 4 of section 70 of the Act, as enacted by section 11 of the Bill, a board other than a divisional board of education becomes responsible for the education of trainable retarded pupils it is proposed that such a pupil would, having regard to the school support of his parent or guardian, become qualified to be a resident pupil in respect of the public school section or separate school zone for the board that the pupil is to attend. The subsections added to section 32 of the Act produce that result when taken in conjunction with the amendment made to subsection 3 of section 37 of the Act as provided in section 8 of the Bill.

SECTION 7. Section 34 of the Act now reads as follows:

- 34.—(1) *A person is not qualified to be a resident pupil in respect of an elementary school if he is unable by reason of mental or physical handicap to profit by instruction in an elementary school.*
- (2) *The inability of a pupil to profit by instruction in an elementary school because of a mental or physical handicap shall be determined by a committee established by the board in accordance with this section.*
- (3) *Where the principal of an elementary school considers that a pupil who attends his school is unable by reason of a mental or physical handicap to profit by instruction in an elementary school, or where the parents or guardian of a pupil consider that the pupil is unable to profit by instruction by reason of a mental or physical handicap, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer and a principal, neither of whom is the supervisory officer or principal to whom the matter has been previously referred, and,*
- (a) *a legally qualified medical practitioner where the pupil allegedly has a physical handicap; or*
- (b) *a legally qualified psychiatrist where the pupil allegedly has a mental handicap or a multiple handicap involving both mental and physical defect.*
- (4) *The committee referred to in subsection 3 shall inquire into the alleged inability of the pupil to profit by instruction and the mental or physical condition of the pupil, determine whether the pupil can profit by instruction and make a written report to the board of its determination and, for the purposes of its inquiry, report and determination, the committee shall study all existing reports in respect of the pupil, hear the teachers, parents or guardian of the pupil and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parents or guardian of the pupil, obtain and consider in respect of the pupil,*
- (a) *in the case of alleged mental handicap, a report of an intellectual assessment conducted by a person considered by the committee to be competent for the purpose; and*
- (b) *in the case of alleged physical handicap, a report of a medical examination conducted by a legally qualified medical practitioner,*

and any costs incurred in respect of such assessment or examination, or in respect of the obtaining of other evidence required by the committee, shall be paid by the board.

(5) *Where the parent or guardian of a person determined under this section to be unable to profit by instruction in an elementary school,*

(a) believes that by reason of improvement in the mental or physical condition of the person or other cause the person has become able to profit by such instruction; and

(b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides evidence or information to establish his belief,

the board shall appoint a committee constituted in accordance with subsection 3 which shall review the determination previously made under this section and confirm or alter such determination, and for such purpose the committee has the powers and duties of a committee under subsection 4, which subsection applies mutatis mutandis.

(6) *Where a person is excluded from an elementary school under this section, the board shall forthwith notify the Minister.*

At present, a board has power to exclude a person from an elementary school if he is unable to profit from instruction by reason of mental or physical handicap. The section as re-enacted implements the following principles:

1. A duty is placed on boards to co-operate with parents or guardians of pupils who cannot profit by instruction in locating a suitable placement for such pupils without cost to the parent or guardian.
2. A final appeal to a Special Education Tribunal is provided as of right from the decision of a board either that the pupil is a hard to serve pupil or from the placement of such pupil outside the school system.

The new section 34a provides for the establishment of Special Education Tribunals by the Lieutenant Governor in Council. The Lieutenant Governor in Council may also by order establish procedures for such tribunals including the power to fix and assess costs.

The new section 34b provides for a further appeal mechanism, in addition to that established under the regulations, to deal with parents or guardians who are dissatisfied with a decision in respect of the identification or placement of a pupil as an exceptional pupil.

- (c) determine whether the pupil can profit by instruction offered by the board or determine that the pupil is a hard to serve pupil,

and the committee shall make a written report of its findings and of its determination to the board and to the parent or guardian of the pupil.

(4) The committee shall, for the purposes of its inquiry, study ^{Idem} all existing reports in respect of the pupil, hear the teachers, the parent or guardian of the pupil, where reasonably possible the pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the pupil, and of the pupil where he is an adult and capable of giving such consent, obtain and consider in respect of the pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

(5) Any costs incurred in respect of an assessment or examination under this section, or in respect of the obtaining of other evidence required by the committee under subsection 3 or under subsection 6 shall be paid by the board referred to in subsection 2. ^{Costs}

(6) Where the parent or guardian of a person in respect of whom a determination has been made under clause c of subsection 3, or the person, where he is an adult, ^{Review}

- (a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by instruction; and
- (b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish such belief,

the board shall appoint a committee constituted in accordance with subsection 2 that shall review the determination in respect of the person last made under this section and confirm or alter such determination and for such purpose the committee has the powers and duties of a committee under subsection 3, which subsection applies with necessary modifications to such a review.

(7) Where a committee under subsection 3 or subsection 6 determines that a pupil is a hard to serve pupil, the committee shall so notify the board and the board shall consider the recommendation and determine that the pupil is a hard to serve pupil or that the pupil is considered to need placement in a special education program, as the case may be, and shall notify the parent or guardian of the pupil in writing of its determination. ^{Action to be taken by committee}

Program for
exceptional
pupil

(8) Where the board determines that the pupil is considered to need placement in a special education program, the board shall refer the matter to the appropriate committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10 that shall determine, designate or design an appropriate special education program for the exceptional pupil.

Placement
of hard to
serve
pupil

(9) Where the board determines that the pupil is a hard to serve pupil and the parent or guardian of the pupil agrees with the said determination, the board shall assist the parent or guardian to locate a placement suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Appeal to
Tribunal

(10) Where,

- (a) the board determines that a pupil is a hard to serve pupil and the parent or guardian of the pupil disagrees with such determination and believes that the pupil is able to profit by instruction; or
- (b) the board locates a placement under subsection 9 and the parent or guardian disagrees with the placement,

the parent or guardian of the pupil may, within fifteen days of the receipt of the notice under subsection 7 or any time prior to the implementation of the placement under subsection 9, notify the board in writing of the disagreement and the board shall forthwith refer the matter to the secretary of a Special Education Tribunal established under subsection 1 of section 34a, by forwarding all the documentation outlining the special education programs and special education services that have been provided to the pupil and all existing reports and relevant material in respect of the pupil.

Costs

(11) The board shall reimburse the parent or guardian for any expenses he incurs in connection with the referral to and subsequent hearing by the Tribunal referred to in subsection 10, provided that such expenses are approved by the Tribunal.

Hearing by
Tribunal

(12) The Special Education Tribunal shall consider the referral and, after a hearing and review of the report of the committee referred to in subsection 3 and the determination of the board, shall find that,

- (a) the pupil is a hard to serve pupil;
- (b) the pupil is considered to need placement in a special education program; or

- (c) the proposed placement under subsection 9 is or is not suited to the needs of the pupil,

and so notify in writing the parent or guardian of the pupil, the board and the Minister.

(13) Where the Tribunal finds that the pupil is considered to need placement in a special education program, the board shall provide a special education program and special education services for the pupil and the board shall, within sixty days of receipt of the notice under subsection 12, inform the Minister of the special education services that have been provided for the pupil.

Findings
of
Tribunal

(14) Where, under subsection 12, the Tribunal finds that the pupil is a hard to serve pupil or that the placement under subsection 9 is not suited to the needs of the pupil, the board shall assist the parent or guardian to locate a placement or a new placement, as the case may be, suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Idem

(15) Where, pursuant to an application by the board or by the pupil or on his behalf for judicial review under *The Judicial Review Procedure Act, 1971*, the finding of the Special Education Tribunal is set aside, the determination of the board under subsection 7 shall be referred to a Special Education Tribunal for a new hearing conducted by members of the Tribunal other than those who first heard the matter if the board or the parent or guardian of the pupil, as the case may be, makes application therefor to the secretary of the Special Education Tribunal by registered mail within fifteen days after the date of the order of the court setting aside the finding of the Special Education Tribunal and the provisions of subsections 11, 12, 13 and 14 apply with necessary modifications in respect of a hearing by the Special Education Tribunal under this subsection.

New
Tribunal
provided
1971, c. 48

(16) A placement of a hard to serve pupil under subsection 9 or 14 shall be made in Ontario, except where no placement suited to the needs of the pupil is available in Ontario, a placement may be made outside Ontario.

Placement
in
Ontario

(17) Where a hard to serve pupil is placed under subsection 9 or 14, Ontario shall pay the cost, if any, of such placement.

Cost of
placement

34a.—(1) For the purposes of section 34, the Lieutenant Governor in Council shall establish one or more tribunals known as Special Education Tribunals, provincial or regional, and appoint a secretary of such tribunals.

Establish-
ment of
Special
Education
Tribunal

(2) The Lieutenant Governor in Council may by order,

Procedures
of
Special
Education
Tribunals

- (a) establish the procedures that shall apply; and
- (b) authorize Special Education Tribunals to fix and assess costs,

with respect to matters dealt with by Special Education Tribunals.

Leave
to
appeal

34b.—(1) Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may apply to the secretary of a Special Education Tribunal for a hearing for leave to appeal to a regional tribunal established by the Minister under subsection 2 in respect of the identification or placement.

Establishment
of regional
tribunal

(2) Where leave to appeal is granted under subsection 1, a regional tribunal shall be established by the Minister to hear the appeal of the parent or guardian.

Hearing
by Special
Education
Tribunal

(3) Notwithstanding subsection 1, a Special Education Tribunal may with the consent of the parties before it in lieu of granting leave to appeal to a regional tribunal hear and dispose of the appeal of the parent or guardian.

Regulations

(4) The Lieutenant Governor in Council may make regulations governing the provision, establishment, organization and administration of a regional tribunal and regulating and controlling the practice and procedure before such tribunal including the costs of persons before such tribunal.

Decision
final

(5) The decision of a Special Education Tribunal or of a regional tribunal under this section is final and binding upon the parties to any such decision.

Disposition

(6) The tribunal hearing the appeal may,

- (a) dismiss the appeal; or
- (b) grant the appeal and make such order as it considers necessary with respect to the identification or placement of the pupil.

s. 37 (3),
amended

8. Subsection 3 of section 37 of the said Act is amended by adding at the end thereof "until such date as may be designated by the Lieutenant Governor in Council or the 31st day of December, 1984, whichever occurs first".

s. 45 (1),
re-enacted

9. Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Right
of certain
pupils to
attend school
in another
jurisdiction

(1) Where, on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, a trainable retarded pupil was enrolled in a trainable retarded school or class that he had a right to attend and,

SECTION 8. The amendment of subsection 3 of section 37 of the Act is complementary to the amendment to section 32 of the Act as provided in section 6 of the Bill.

SECTION 9. Subsection 1 of section 45 of the Act now reads as follows:

- (1) Where, on the 31st day of December, 1968, a pupil was enrolled in a public, separate or secondary school that he had a right to attend, and the school on and after the 1st day of January, 1969, is situated in a school division or a combined separate school zone, as the case may be, other than the school division or the combined separate school zone in which the pupil resides, the pupil has, in addition to any other right that he may have under this Act, subject to subsection 5 of section 37, the right to attend the school until he completes his education in the school.*

The subsection has ceased to have effect because of the passage of time and is repealed.

The new subsection 1 enables a trainable retarded pupil to elect to continue to attend the trainable retarded school or class operated by a divisional board that he has been attending notwithstanding the board of which he is qualified to be a resident pupil commences to operate or provide a trainable retarded school or class.

Where the pupil so elects, the board of which he is qualified to be a resident pupil is required to pay fees to the board that operates the school or class that he attends.

SECTION 10. Section 69 now reads as follows:

69.—(1) *In sections 69 to 78,*

- (a) *“committee” means an advisory committee on schools for trainable retarded children;*
- (b) *“divisional board” means a divisional board of education and includes The Metropolitan Toronto School Board;*
- (c) *“local association” means a parent’s group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;*
- (d) *“school division” includes the Metropolitan Area as defined in The Municipality of Metropolitan Toronto Act.*

(2) *For the purposes of sections 69 to 78, The Metropolitan Toronto School Board shall be deemed to be organized as a divisional board on the 1st day of January, 1969.*

The new definition of “board” in section 69 has the effect of requiring all school boards in the province, except the boards of education in Metropolitan Toronto and The James Bay Lowlands Secondary School Board, to provide education for their trainable retarded pupils.

In Metropolitan Toronto, education for trainable retarded pupils continues to be the responsibility of The Metropolitan Toronto School Board. In the area of jurisdiction of The James Bay Lowlands Secondary School Board, education for the trainable retarded pupils will be provided by The Moose Factory Island District School Area Board, The Moosonee District School Area Board and The Moosonee Roman Catholic Separate School Board.

Subsection 2 is re-enacted to clarify that all the members of The Metropolitan Toronto School Board are trustees for the purposes of schools for trainable retarded pupils.

SECTION 11. Section 70 of the Act now reads as follows:

70.—(1) *Subject to subsection 2, every divisional board shall provide adequate accommodation for the trainable retarded children who reside in the school division and shall establish and maintain a school or class for the trainable retarded children who are admitted under section 75.*

(2) *A divisional board may, in lieu of establishing and maintaining a school or class for trainable retarded children, enter into an agreement with another divisional board to provide for the instruction of the trainable retarded children who reside in the school division of the first-mentioned board in a school or class for trainable retarded children under the jurisdiction of the other board and for the payment of fees in respect of such pupils.*

- (a) the parent or guardian of the pupil is a supporter of a board other than the board that operates the trainable retarded school or class that the pupil attends; and
- (b) the board of which the pupil is qualified to be a resident pupil, provides instruction for trainable retarded pupils or has entered into an agreement for the provision of such instruction with a board other than the board that on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, operated the trainable retarded school or class in which the pupil was enrolled,

the trainable retarded pupil has, in addition to any other right that he may have under this Act, the right to attend the trainable retarded school or class in which he was enrolled on the 31st day of December, 1984, or such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, until the last school day in June in the year in which he attains the age of twenty-one years, and where such pupil elects to continue to attend the trainable retarded school or class in which he was enrolled, the board of which he is qualified to be a resident pupil shall pay to the divisional board that operates such school or class a fee calculated in accordance with the regulations.

- 10.** Section 69 of the said Act is repealed and the following substituted therefor: s. 69,
re-enacted

69.—(1) In sections 69 to 78, Interpre-
tation

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(2) All members of The Metropolitan Toronto School Board are trustees for the purpose of its schools for trainable retarded pupils. Metropolitan
Toronto
School
Board

- 11.** Section 70 of the said Act is repealed and the following substituted therefor: s. 70,
re-enacted

Provision
of
adequate
accommodation

70.—(1) Subject to subsections 2 and 4 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils,

(a) who are exceptional pupils of the board; and

(b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

Agreement
with other
board

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils.

Placement
and review

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement.

Application
of subss.
1 and 2

(4) Subsections 1 and 2 apply on the 1st day of January, 1985 or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, to a public school board, a Roman Catholic separate school board and a Protestant separate school board.

s. 71,
re-enacted

12. Section 71 of the said Act is repealed and the following substituted therefor:

Attendance
beyond
age 21

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years.

Admission
of other
trainable
retarded
pupils

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the

- (3) *Where a child referred to in subsection 2 is admitted to or excluded from a school or class for trainable retarded children by the admissions board of the divisional board that operates the school or class, such admission or exclusion shall be deemed to be a decision of an admissions board for the board of the school division in which the child resides.*

Subsection 1 is re-enacted to provide for the admission of pupils of boards referred to in section 69 to schools or classes for trainable retarded pupils where such placement is determined by a committee established under paragraph 5 of subsection 1 of section 10 and to require that the programs and services that are provided to such pupils are in accordance with the regulations and in the language of instruction of the trainable retarded pupils. At present, such pupils are admitted under section 75 of the Act. This section is now repealed (see section 14 of the Bill).

Subsection 2 is re-enacted to be complementary to the amendments to section 69 of the Act.

The amendment to subsection 3 provides that a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction is responsible for the placement and review of placement of trainable retarded pupils of the board that is paying the fees under an agreement provided for in subsection 2.

Subsection 4 provides that a board that was not authorized to operate or provide a school or class for trainable retarded children shall operate or provide such a school or class on such date as the Lieutenant Governor in Council may designate or on the 1st day of January, 1985 if such a designation is not made.

SECTION 12. Section 71 now reads as follows:

- 71.—(1) *Subject to section 75, a trainable retarded child whose parent or guardian resides in a school division has the right to attend a school or class for trainable retarded children established by the board of the school division or provided under an agreement made under subsection 2 of section 70.*
- (2) *Subject to section 75, a divisional board may admit to a school for trainable retarded children operated by the board a child who does not have the right to attend such school under subsection 1.*

Since section 75 is being repealed (see section 14 of the Bill) internal references to that section are being deleted.

Subsections 1 and 2, as re-enacted, provide for a trainable retarded pupil who attains the age of twenty-one years in the period January 1st to June 29th a right or entitlement to continue in school until the 30th day of June in the year in which he attains the age of twenty-one years.

Subsection 2, as re-enacted, is complementary to the provisions of subsection 3 of section 70 (see subsection 2 of section 8 of the Bill) in respect of trainable retarded pupils who wish to attend a trainable retarded school or class and who do not qualify to attend under subsection 1 of section 71.

Section 71 is now consistent with the provisions of the new section 69 of the Act.

SECTION 13. This amendment is complementary to the new section 178a that provides for the establishment of a special education advisory committee. A divisional board of education may decide to broaden the basis of representation on the committee established under section 72 or terminate the committee on schools for trainable retarded pupils and establish a committee under section 178a, or continue the advisory committee for trainable retarded pupils along with the advisory committee under section 178a. The Metropolitan Toronto School Board will retain its advisory committee for trainable retarded pupils.

The new subsection 1b permits a board, other than a board referred to in subsection 1, to establish an advisory committee on schools for trainable retarded pupils.

SECTION 14. The provision for an admissions board for schools or classes for trainable retarded pupils is removed.

Committees, provided in accordance with the regulations, will now be responsible for the placement and program review of exceptional pupils which by definition includes trainable retarded pupils (see section 11 of the Bill).

Section 76 is no longer required because each of the boards therein referred to will now be required to provide for its resident trainable retarded pupils.

SECTION 15. Section 77 now reads as follows:

- 77.—(1) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in the school division, the board of the school division or secondary school district in which his parent or guardian resides, shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*
- (2) *Where a divisional board provides instruction in a school or class for trainable retarded children for a pupil whose parent or guardian does not reside in a school division or a secondary school district but does reside in a school section or in a separate school zone, the board of the school section or separate school zone of which the parent or guardian is a supporter shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations.*
- (3) *Where a child is admitted to a school or class for trainable retarded children but his parent or guardian is resident on lands that are exempt from taxation for school purposes and that have been designated by the Minister as a school section for which a board has been appointed under subsection 1 of section 68 or that have been designated a secondary school district for which a board has been appointed under subsection 2 of section 68, the board shall pay to the divisional board a fee calculated in accordance with the regulations.*

Subsection 1 is re-enacted to be consistent with the changes made in section 69 of the Act.

Subsections 2 and 3 are repealed because the payments of fees will now be provided for in an agreement made under subsection 2 of section 70 of the Act.

SECTION 16. The changes to section 78 of the Act are complementary to the changes in section 69 of the Act.

SECTION 17. The amendment makes mandatory the provision by a board of special education programs and services for its exceptional pupils in the language of instruction in which they would ordinarily have been instructed and requires such programs and services to be fully phased in in accordance with the regulations by September 1, 1985.

right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

- 13.** Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor: s. 72 (1),
re-enacted

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1a, establish an advisory committee on schools for trainable retarded pupils. Advisory
committee

(1a) Where a divisional board establishes a committee under subsection 2 of section 178a, it may, Idem

(a) discontinue the committee established under subsection 1; or

(b) continue the committee established under subsection 1 and appoint one of the members appointed under clause b of subsection 2 to the committee established under subsection 2 of section 178a.

(1b) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee. Idem

- 14.** Sections 75 and 76 of the said Act are repealed. ss. 75, 76,
repealed

- 15.** Section 77 of the said Act is repealed and the following substituted therefor: s. 77,
re-enacted

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations. Fees for
non-resident
pupils of
divisional
boards

- 16.—(1)** Subsection 2 of section 78 of the said Act is amended by striking out "but not in a school division" in the second line. s. 78 (2),
amended

(2) Subsection 3 of the said section 78 is amended by striking out "divisional" in the sixth line and in the seventh line. s. 78 (3),
amended

- 17.** Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph: s. 146,
amended

special
education
programs
and
services

- 6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

s. 147 (1),
par. 38,
re-enacted

18. Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor:

programs
in
detention
homes

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.

s. 163 (2),
re-enacted

19. Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor:

Idem

- (2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, a facility designated under *The Developmental Services Act, 1974*, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act, 1978*.

R.S.O. 1970,
c. 378

R.S.O. 1970,
c. 269
1978, c. 67

20. The said Act is further amended by adding thereto the following section:

s. 178a,
enacted

SPECIAL EDUCATION ADVISORY COMMITTEE

Interpre-
tation

- 178a.—(1) In this section,

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) "committee" means a special education advisory committee;

SECTION 18. Paragraph 38 of subsection 1 of section 147 now reads as follows:

38. *employ and pay teachers to conduct an education program in a juvenile detention and observation home established under The Provincial Courts Act, a psychiatric facility as defined in the regulations and a facility designated under The Developmental Services Act, 1974 in which an educational program is not provided by the Ministry, provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.*

The amendment extends the kinds of facilities, institutions, homes and hospitals in which a board may provide teachers and educational assistance to carry out an educational program.

SECTION 19. The amendment adds demonstration schools for pupils with severe learning disabilities, crippled children's treatment centres and facilities designated under *The Children's Mental Health Services Act, 1978* to the list of facilities to and from which a board may transport its resident pupils.

SECTION 20. The section provides for the establishment of advisory committees to make recommendations to school boards in respect of the establishment and development by the boards of special education programs and services. The committees are mandatory for the larger boards and permissive for smaller boards and in the case of boards that already have an advisory committee on trainable retarded pupils, such boards are authorized to comply with this section by enlarging and altering the representation on such committee to accord with the requirements of this section.

- (c) "local association" means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

(2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of, Advisory committee

- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;
- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and
- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

(3) Each of the persons appointed under subsection 2 who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized. Idem

(4) Section 202 applies with necessary modifications to a member of a committee established under subsection 2. Application of s. 202

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the board of education elected by separate school electors. Members of committee

Local
associations

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69.

Requirements
for advisory
committee

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy the requirements for a committee under this section where,

- (a) a representative from each of the local associations, not to exceed twelve, and none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

Recommendations

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board.

Application
of ss. 72 (5, 6),
73 and 74

(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2.

Members
of
committee

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board shall appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board.

Selection
by board

(11) For the purposes of subsections 2 and 7, where there are more than twelve local associations in the area of jurisdiction of

SECTION 21. Because divisional boards of education have operated or provided schools or classes for trainable retarded children whose parents or guardians are Roman Catholic separate school supporters, the expenditures have been met by grants and local levy for secondary school purposes. In the future when a board becomes authorized by Order of the Lieutenant Governor in Council to operate or provide such schools or classes, expenditures will be met by grants and local levy for elementary school purposes. Divisional boards of education that are affected by any such Order will also levy funds for the trainable retarded schools or classes that they operate for public school purposes and not for secondary school purposes.

SECTION 22. Subsection 1 of section 271a permits the Lieutenant Governor in Council to designate a single date upon which the provisions set out shall apply to all boards or to specify the board or boards to which the provisions apply and the respective dates upon which the provisions will have application.

All the members of a divisional board of education have been trustees for the purposes of schools for trainable retarded pupils. Subsection 2 of section 271a has the effect of providing that at such time as a Roman Catholic separate school board that has jurisdiction in all or part of the area of jurisdiction of a divisional board assumes responsibility for the provision of trainable retarded education, the members of the divisional board elected by public school electors will become trustees for the purposes of its schools for trainable retarded pupils except where matters relative thereto do not affect such schools exclusively.

The Metropolitan Toronto School Board now operates schools for trainable retarded pupils of Metropolitan Toronto. Subsection 3 of section 271a provides that when The Metropolitan Separate School Board commences the operation of such schools for its trainable retarded pupils, The Metropolitan Toronto School Board shall include the costs of operation of its trainable retarded schools in its estimates for public school purposes rather than in its estimates for secondary school purposes.

the board, the board shall select the twelve local associations that shall be represented.

- 21.** Subsection 3 of section 205 of the said Act is amended by inserting after "1" in the third line "for" and by adding thereto the following clauses:

s. 205 (3),
amended

- (a) where there is no designation by the Lieutenant Governor in Council under clause *b*, the years 1981, 1982, 1983 and 1984 and commencing with the year 1985 and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1; or
- (b) where there is a designation by the Lieutenant Governor in Council, the year 1981 and such year or years as may be designated by the Lieutenant Governor in Council and commencing with the year designated by the Lieutenant Governor in Council and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1.

- 22.** The said Act is further amended by adding thereto the following section:

s. 271a,
enacted

PART XI-A

TRANSITIONAL PROVISIONS

271a.—(1) Where the Lieutenant Governor in Council designates a date for the purposes of subsections 5 and 6 of section 32, subsection 3 of section 37, subsection 1 of section 45 and subsection 3 of section 205 or any of them, such designation may have general application or may relate to such board or boards as may be set out in the designation.

Date and
scope of
designation

(2) Where the Lieutenant Governor in Council designates a date for the purposes of subsection 5 of section 32 and subsection 3 of section 205 in respect of a divisional board, subsection 5 of section 53 ceases to apply to such divisional board.

Application
of s. 53 (5)

(3) Effective the date designated by the Lieutenant Governor in Council for the purposes of subsection 3 of section 37, or the 31st day of December, 1984, whichever occurs first, in relation to The Metropolitan Separate School Board and The Metropolitan Toronto School Board, subsection 4 of section 37 ceases to operate and the cost of operation of schools for trainable retarded children operated by The Metropolitan Toronto School Board shall be included in the estimates of such board for public elementary school purposes.

Application
and
operation
of s. 37 (4)

Commence-
ment

23. This Act comes into force on the day it receives Royal Assent.

Short title

24. The short title of this Act is *The Education Amendment Act, 1980*.

An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

June 17th, 1980

3rd Reading

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 82

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Education Act, 1974

**THE HON. B. STEPHENSON
Minister of Education
and Minister of Colleges and Universities**

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Education Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 1 of *The Education Act, 1974*, being chapter 109, as amended by the Statutes of Ontario, 1976, chapter 50, section 1 and 1978, chapter 44, sections 1 and 25, is further amended by adding thereto the following paragraphs:

20a. “exceptional pupil” means a pupil whose behavioural, communicational, intellectual, physical or multiple exceptionalities are such that he is considered to need placement in a special education program by a committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10, of the board,

(i) of which he is a resident pupil,

(ii) that admits or enrolls the pupil other than pursuant to an agreement with another board for the provision of education, or

(iii) to which the cost of education in respect of the pupil is payable by the Minister;

62a. “special education program” means, in respect of an exceptional pupil, an educational program that is based on and modified by the results of continuous assessment and evaluation and that includes a plan containing specific objectives and an outline of educational services that meets the needs of the exceptional pupil;

62b. “special education services” means facilities and resources, including support personnel and equipment, necessary for developing and implementing a special education program.

s. 1 (1),
par. 66,
re-enacted

- (2) Paragraph 66 of subsection 1 of the said section 1 is repealed and the following substituted therefor:

66. "trainable retarded child" or "trainable retarded pupil" means an exceptional pupil whose intellectual functioning is below the level at which he could profit from a special education program for educable retarded pupils.

s. 8,
amended

2. Section 8 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 72, section 1 and 1976, chapter 50, section 2, is further amended by adding thereto the following subsection:

Identification
programs
and special
education
programs
and services

(1a) The Minister shall ensure that all exceptional children in Ontario have available to them, in accordance with this Act and the regulations, appropriate special education programs and special education services without payment of fees by parents or guardians resident in Ontario, and shall provide for the parents or guardians to appeal the appropriateness of the special education placement, and for these purposes the Minister shall,

- (a) require school boards to implement procedures for early and ongoing identification of the learning abilities and needs of pupils, and shall prescribe standards in accordance with which such procedures be implemented; and
- (b) in respect of special education programs and services, define exceptionalities of pupils, and prescribe classes, groups or categories of exceptional pupils, and require boards to employ such definitions or use such prescriptions as established under this clause.

s. 10 (1),
par. 5,
re-enacted

- 3.—(1) Paragraph 5 of subsection 1 of section 10 of the said Act is repealed and the following substituted therefor:

special
education
programs

- 5. governing the provision, establishment, organization and administration of,
 - (i) special education programs,
 - (ii) special education services, and
 - (iii) committees to identify exceptional pupils and to make and review placements of exceptional pupils,

and, subject to paragraph 6a of section 146, prescribing generally or with application to a particular board, the date by which and the extent to which such programs and services shall be established.

- (2) Subsection 1 of the said section 10 is amended by adding thereto the following paragraph: s. 10 (1),
amended

5a. governing procedures with respect to parents or guardians for appeals in respect of identification and placement of exceptional pupils in special education programs. identification
and
placement
appeals

- (3) Subparagraph iii of paragraph 14 of subsection 1 of the said section 10 is repealed and the following substituted therefor: s. 10 (1),
par. 14,
subpar. iii,
re-enacted

iii. are admitted to a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act.

- 4.—(1) Section 12 of the said Act is amended by adding thereto the following subsections: s. 12,
amended

(3a) Subject to the approval of the Lieutenant Governor in Council, the Minister may, Demonstra-
tion
schools

(a) establish, maintain and operate one or more demonstration schools; or

(b) enter into an agreement with a university to provide for the establishment, maintenance and operation by the university, under such terms and conditions as the Minister and the university may agree upon, of a demonstration school,

for exceptional pupils whose learning disabilities are such that a residential setting is required.

(3b) Commencing with the school year 1980-81, a demonstration school referred to in subsection 3a that is established by the Minister before this section comes into force is deemed not to be a school operated by the Ministry of Education for the purposes of *The Provincial Schools Negotiations Act, 1975*, and the provincial schools authority is not responsible for any matter relating to the employment of teachers at a demonstration school. Idem
1975, c. 81

- (2) Subsection 4 of the said section 12 is amended by striking out “such schools for the deaf or blind” in the third and fourth lines and inserting in lieu thereof “schools continued or established under this section”. s. 12 (4),
amended

5. Subsection 3 of section 20 of the said Act is amended by striking out “if the child is eligible for admission to the Ontario School for the Blind, an Ontario School for the Deaf or a school or class for trainable retarded children” in the third, fourth and fifth lines. s. 20 (3),
amended

6. Section 32 of the said Act is amended by adding thereto the following subsections: s. 32,
amended

Application
of subss.
1 and 4

(5) Subsections 1 and 4 apply with necessary modifications to a trainable retarded child in respect of a school section on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

Application
of subss.
2 and 4

(6) Subsections 2 and 4 apply with necessary modifications to a trainable retarded child in respect of a separate school zone on such date as may be designated by the Lieutenant Governor in Council or the 1st day of January, 1985, whichever occurs first.

s. 34,
re-enacted

7. Section 34 of the said Act is repealed and the following substituted therefor:

Interpre-
tation

34.—(1) In this section,

- (a) "board" includes The Metropolitan Toronto School Board;
- (b) "hard to serve pupil" means a pupil who, under this section, is determined to be unable to profit by instruction offered by a board due to a mental handicap or a mental and one or more additional handicaps;
- (c) "school" includes a school or class for trainable retarded pupils.

Inability
to profit
by
instruction

(2) Where a principal considers that an exceptional pupil who attends his school is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, or where the parent or guardian of a pupil considers that the pupil is, because of a mental or a mental and one or more additional handicaps, unable to profit by instruction offered by the board, the principal shall refer the matter to the appropriate supervisory officer who shall refer the matter to the board, and the board shall appoint a committee of three persons consisting of a supervisory officer, a principal and a legally qualified medical practitioner who has expertise in respect of the mental or other handicap of the pupil, none of whom is a person to whom the matter has been previously referred.

Inquiry
by
committee

(3) The committee referred to in subsection 2 shall,

- (a) in accordance with subsection 4, inquire into the alleged inability of the pupil to profit by instruction offered by the board;
- (b) inquire into the handicap or handicaps of the pupil; and

- (c) determine whether the pupil can profit by instruction offered by the board or determine that the pupil is a hard to serve pupil,

and the committee shall make a written report of its findings and of its determination to the board and to the parent or guardian of the pupil.

(4) The committee shall, for the purposes of its inquiry, study ^{Idem} all existing reports in respect of the pupil, hear the teachers, the parent or guardian of the pupil, where reasonably possible the pupil, and any other person who may be able to contribute information bearing upon the matter and may, with the consent of the parent or guardian of the pupil, and of the pupil where he is an adult and capable of giving such consent, obtain and consider in respect of the pupil, the report of an assessment conducted by a person considered by the committee to be competent for the purpose.

(5) Any costs incurred in respect of an assessment or examination under this section, or in respect of the obtaining of other evidence required by the committee under subsection 3 or under subsection 6 shall be paid by the board referred to in subsection 2. ^{Costs}

(6) Where the parent or guardian of a person in respect of whom a determination has been made under clause *c* of subsection 3, or the person, where he is an adult, ^{Review}

- (a) believes that by reason of improvement in the condition of the person or other cause the person has become able to profit by instruction; and
- (b) furnishes to a supervisory officer of the board in whose jurisdiction the person resides, evidence or information to establish such belief,

the board shall appoint a committee constituted in accordance with subsection 2 that shall review the determination in respect of the person last made under this section and confirm or alter such determination and for such purpose the committee has the powers and duties of a committee under subsection 3, which subsection applies with necessary modifications to such a review.

(7) Where a committee under subsection 3 or subsection 6 determines that a pupil is a hard to serve pupil, the committee shall so notify the board and the board shall consider the recommendation and determine that the pupil is a hard to serve pupil or that the pupil is considered to need placement in a special education program, as the case may be, and shall notify the parent or guardian of the pupil in writing of its determination. ^{Action to be taken by committee}

Program for
exceptional
pupil

(8) Where the board determines that the pupil is considered to need placement in a special education program, the board shall refer the matter to the appropriate committee established under subparagraph iii of paragraph 5 of subsection 1 of section 10 that shall determine, designate or design an appropriate special education program for the exceptional pupil.

Placement
of hard to
serve
pupil

(9) Where the board determines that the pupil is a hard to serve pupil and the parent or guardian of the pupil agrees with the said determination, the board shall assist the parent or guardian to locate a placement suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Appeal to
Tribunal

(10) Where,

- (a) the board determines that a pupil is a hard to serve pupil and the parent or guardian of the pupil disagrees with such determination and believes that the pupil is able to profit by instruction; or
- (b) the board locates a placement under subsection 9 and the parent or guardian disagrees with the placement,

the parent or guardian of the pupil may, within fifteen days of the receipt of the notice under subsection 7 or any time prior to the implementation of the placement under subsection 9, notify the board in writing of the disagreement and the board shall forthwith refer the matter to the secretary of a Special Education Tribunal established under subsection 1 of section 34a, by forwarding all the documentation outlining the special education programs and special education services that have been provided to the pupil and all existing reports and relevant material in respect of the pupil.

Costs

(11) The board shall reimburse the parent or guardian for any expenses he incurs in connection with the referral to and subsequent hearing by the Tribunal referred to in subsection 10, provided that such expenses are approved by the Tribunal.

Hearing by
Tribunal

(12) The Special Education Tribunal shall consider the referral and, after a hearing and review of the report of the committee referred to in subsection 3 and the determination of the board, shall find that,

- (a) the pupil is a hard to serve pupil;
- (b) the pupil is considered to need placement in a special education program; or

- (c) the proposed placement under subsection 9 is or is not suited to the needs of the pupil,

and so notify in writing the parent or guardian of the pupil, the board and the Minister.

(13) Where the Tribunal finds that the pupil is considered to need placement in a special education program, the board shall provide a special education program and special education services for the pupil and the board shall, within sixty days of receipt of the notice under subsection 12, inform the Minister of the special education services that have been provided for the pupil.

Findings
of
Tribunal

(14) Where, under subsection 12, the Tribunal finds that the pupil is a hard to serve pupil or that the placement under subsection 9 is not suited to the needs of the pupil, the board shall assist the parent or guardian to locate a placement or a new placement, as the case may be, suited to the needs of the pupil and reimburse the parent or guardian for any expenses incurred by the parent or guardian in locating such placement.

Idem

(15) Where, pursuant to an application by the board or by the pupil or on his behalf for judicial review under *The Judicial Review Procedure Act, 1971*, the finding of the Special Education Tribunal is set aside, the determination of the board under subsection 7 shall be referred to a Special Education Tribunal for a new hearing conducted by members of the Tribunal other than those who first heard the matter if the board or the parent or guardian of the pupil, as the case may be, makes application therefor to the secretary of the Special Education Tribunal by registered mail within fifteen days after the date of the order of the court setting aside the finding of the Special Education Tribunal and the provisions of subsections 11, 12, 13 and 14 apply with necessary modifications in respect of a hearing by the Special Education Tribunal under this subsection.

New
Tribunal
provided
1971, c. 48

(16) A placement of a hard to serve pupil under subsection 9 or 14 shall be made in Ontario, except where no placement suited to the needs of the pupil is available in Ontario, a placement may be made outside Ontario.

Placement
in
Ontario

(17) Where a hard to serve pupil is placed under subsection 9 or 14, Ontario shall pay the cost, if any, of such placement.

Cost of
placement

34a.—(1) For the purposes of section 34, the Lieutenant Governor in Council shall establish one or more tribunals known as Special Education Tribunals, provincial or regional, and appoint a secretary of such tribunals.

Establish-
ment of
Special
Education
Tribunal

(2) The Lieutenant Governor in Council may by order,

Procedures
of
Special
Education
Tribunals

- (a) establish the procedures that shall apply; and
- (b) authorize Special Education Tribunals to fix and assess costs,

with respect to matters dealt with by Special Education Tribunals.

Leave
to
appeal

34b.—(1) Where a parent or guardian of a pupil has exhausted all rights of appeal under the regulations in respect of the identification or placement of the pupil as an exceptional pupil and is dissatisfied with the decision in respect of the identification or placement, the parent or guardian may apply to the secretary of a Special Education Tribunal for a hearing for leave to appeal to a regional tribunal established by the Minister under subsection 2 in respect of the identification or placement.

Establishment
of regional
tribunal

(2) Where leave to appeal is granted under subsection 1, a regional tribunal shall be established by the Minister to hear the appeal of the parent or guardian.

Hearing
by Special
Education
Tribunal

(3) Notwithstanding subsection 1, a Special Education Tribunal may with the consent of the parties before it in lieu of granting leave to appeal to a regional tribunal hear and dispose of the appeal of the parent or guardian.

Regulations

(4) The Lieutenant Governor in Council may make regulations governing the provision, establishment, organization and administration of a regional tribunal and regulating and controlling the practice and procedure before such tribunal including the costs of persons before such tribunal.

Decision
final

(5) The decision of a Special Education Tribunal or of a regional tribunal under this section is final and binding upon the parties to any such decision.

Disposition

(6) The tribunal hearing the appeal may,

- (a) dismiss the appeal; or
- (b) grant the appeal and make such order as it considers necessary with respect to the identification or placement of the pupil.

s. 37 (3),
amended

8. Subsection 3 of section 37 of the said Act is amended by adding at the end thereof "until such date as may be designated by the Lieutenant Governor in Council or the 31st day of December, 1984, whichever occurs first".

s. 45 (1),
re-enacted

9. Subsection 1 of section 45 of the said Act is repealed and the following substituted therefor:

Right
of certain
pupils to
attend school
in another
jurisdiction

(1) Where, on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, a trainable retarded pupil was enrolled in a trainable retarded school or class that he had a right to attend and,

- (a) the parent or guardian of the pupil is a supporter of a board other than the board that operates the trainable retarded school or class that the pupil attends; and
- (b) the board of which the pupil is qualified to be a resident pupil, provides instruction for trainable retarded pupils or has entered into an agreement for the provision of such instruction with a board other than the board that on the 31st day of December, 1984, or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, operated the trainable retarded school or class in which the pupil was enrolled,

the trainable retarded pupil has, in addition to any other right that he may have under this Act, the right to attend the trainable retarded school or class in which he was enrolled on the 31st day of December, 1984, or such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, until the last school day in June in the year in which he attains the age of twenty-one years, and where such pupil elects to continue to attend the trainable retarded school or class in which he was enrolled, the board of which he is qualified to be a resident pupil shall pay to the divisional board that operates such school or class a fee calculated in accordance with the regulations.

10. Section 69 of the said Act is repealed and the following substituted s. 69,
re-enacted
therefor:

69.—(1) In sections 69 to 78,

Interpre-
tation

- (a) “board” means a public school board, a Roman Catholic separate school board, a Protestant separate school board, a board of education other than a board of education for an area municipality in The Municipality of Metropolitan Toronto and includes The Metropolitan Toronto School Board;
- (b) “committee” means an advisory committee on schools for trainable retarded pupils;
- (c) “local association” means a parents’ group that is affiliated with the Ontario Association for the Mentally Retarded and that operates within the area of jurisdiction of the board;

(2) All members of The Metropolitan Toronto School Board are Metropolitan
Toronto
School
Board
trustees for the purpose of its schools for trainable retarded pupils.

11. Section 70 of the said Act is repealed and the following substituted s. 70,
re-enacted
therefor:

Provision
of
adequate
accommodation

70.—(1) Subject to subsections 2 and 4 and to the regulations, every board shall provide adequate accommodation for the trainable retarded pupils,

(a) who are exceptional pupils of the board; and

(b) in respect of whom a placement in a school or class for trainable retarded pupils has been made by a committee established under paragraph 5 of subsection 1 of section 10,

and shall establish and maintain a school or class for such trainable retarded pupils in which special education programs and services shall be provided in accordance with the regulations and in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

Agreement
with other
board

(2) A board may, in lieu of establishing and maintaining a school or class for the trainable retarded pupils for whom it is required to provide accommodation under subsection 1, enter into an agreement with another board to provide for the instruction of such trainable retarded pupils in a school or class for trainable retarded pupils under the jurisdiction of the other board and for the payment of fees in respect of such trainable retarded pupils.

Placement
and review

(3) Where an agreement has been entered into under subsection 2, a committee established under paragraph 5 of subsection 1 of section 10 by the board that provides the instruction shall be responsible for the placement and the review of the placement of trainable retarded pupils who are qualified to be resident pupils of the other board that is party to such agreement.

Application
of subss.
1 and 2

(4) Subsections 1 and 2 apply on the 1st day of January, 1985 or on such date as may be designated by the Lieutenant Governor in Council, whichever occurs first, to a public school board, a Roman Catholic separate school board and a Protestant separate school board.

s. 71,
re-enacted

12. Section 71 of the said Act is repealed and the following substituted therefor:

Attendance
beyond
age 21

71.—(1) A trainable retarded pupil has the right to attend a school or class for trainable retarded pupils established by the board of which he is a resident pupil or provided under an agreement made under subsection 2 of section 70 or to which he is admitted under subsection 2 until the last school day in June in the year in which he attains the age of twenty-one years.

Admission
of other
trainable
retarded
pupils

(2) A board may admit to a school for trainable retarded pupils that it operates a trainable retarded pupil who does not have the

right to attend such school under subsection 1 where the committee of the board established under paragraph 5 of subsection 1 of section 10 recommends the placement of such trainable retarded pupil in the trainable retarded school or class operated by the board, and fees in accordance with the regulations are paid to the board on behalf of such trainable retarded pupil.

- 13.** Subsection 1 of section 72 of the said Act is repealed and the following substituted therefor: s. 72 (1),
re-enacted

(1) A divisional board and The Metropolitan Toronto School Board shall, subject to subsection 1a, establish an advisory committee on schools for trainable retarded pupils. Advisory
committee

(1a) Where a divisional board establishes a committee under subsection 2 of section 178a, it may, Idem

(a) discontinue the committee established under subsection 1; or

(b) continue the committee established under subsection 1 and appoint one of the members appointed under clause b of subsection 2 to the committee established under subsection 2 of section 178a.

(1b) A board other than a board referred to in subsection 1 may establish an advisory committee on schools for trainable retarded pupils under this section, in which case subsections 2, 3, 4, 5 and 6 and sections 73 and 74 apply with necessary modifications to such advisory committee. Idem

- 14.** Sections 75 and 76 of the said Act are repealed. ss. 75, 76,
repealed

- 15.** Section 77 of the said Act is repealed and the following substituted therefor: s. 77,
re-enacted

77. Where a divisional board provides instruction in a school or class for trainable retarded pupils for a trainable retarded pupil who is not a resident pupil of the board, the divisional board of which the trainable retarded pupil is qualified to be a resident pupil shall pay to the divisional board on behalf of the pupil a fee calculated in accordance with the regulations. Fees for
non-resident
pupils of
divisional
boards

- 16.—**(1) Subsection 2 of section 78 of the said Act is amended by striking out "but not in a school division" in the second line. s. 78 (2),
amended

(2) Subsection 3 of the said section 78 is amended by striking out "divisional" in the sixth line and in the seventh line. s. 78 (3),
amended

- 17.** Section 146 of the said Act, as amended by the Statutes of Ontario, 1976, chapter 50, section 21, is further amended by adding thereto the following paragraph: s. 146,
amended

special
education
programs
and
services

- 6a. before the 1st day of September, 1985, provide or enter into an agreement with another board to provide in accordance with the regulations special education programs and special education services for its exceptional pupils in the English language or, where the pupil is enrolled in a school or class established under Part XI, the French language, as the case may be.

s. 147 (1),
par. 38,
re-enacted

- 18.** Paragraph 38 of subsection 1 of section 147 of the said Act is repealed and the following substituted therefor:

programs
in
detention
homes

38. with the approval of the Minister, employ and pay teachers to conduct an education program in a centre, facility, home, hospital or institution that is approved, designated, established, licensed or registered under any Act and in which the Ministry does not provide an education program and provide instructional supplies and consultative help for the pupils therein and permanent improvements for the classrooms connected therewith.

s. 163 (2),
re-enacted

- 19.** Subsection 2 of section 163 of the said Act is repealed and the following substituted therefor:

Idem

- (2) A board may provide for a person who is qualified to be a resident pupil of the board, transportation to and from the Ontario School for the Blind, an Ontario School for the Deaf, a demonstration school established by or operated under an agreement with the Minister for pupils with severe learning disabilities, a centre classified as a Group K hospital under *The Public Hospitals Act*, 1974, a facility designated under *The Developmental Services Act*, 1974, a psychiatric facility designated as such under *The Mental Health Act* and a children's mental health centre approved under *The Children's Mental Health Services Act*, 1978.

R.S.O. 1970,
c. 378

R.S.O. 1970,
c. 269
1978, c. 67

- 20.** The said Act is further amended by adding thereto the following section:

s. 178a,
enacted

SPECIAL EDUCATION ADVISORY COMMITTEE

Interpre-
tation

178a.—(1) In this section,

- (a) "board" means a divisional board of education, a county and district combined Roman Catholic separate school board, a board of education in The Municipality of Metropolitan Toronto, The Metropolitan Separate School Board and The Windsor Roman Catholic Separate School Board;
- (b) "committee" means a special education advisory committee;

- (c) "local association" means an association or organization of parents that operates locally within the area of jurisdiction of a board and that is affiliated with an association or organization that is not an association or organization of professional educators but that is incorporated and operates throughout Ontario to further the interests and well-being of one or more groups of exceptional children or adults.

(2) Every board shall, subject to subsection 6, establish a special educational advisory committee that shall consist of, Advisory committee

- (a) one representative from each of the local associations, not to exceed twelve, in the area of jurisdiction of the board, as nominated by the local association and appointed by the board;
- (b) where the board provides a French-language instructional unit as defined in clause *c* of section 254, one or more members who are French-speaking appointed by the board as representative of the French-speaking ratepayers or supporters of the board;
- (c) where the board provides English-language schools or classes under sections 252 and 266, one or more members who are English-speaking appointed by the board as representative of the English-speaking ratepayers or supporters of the board; and
- (d) three members appointed by the board from among its members,

and, in addition to the members referred to in clauses *a*, *b*, *c* and *d*, the board may appoint one or more additional members who are not representative of either a local association or the French-speaking community and are not members of the board or of a committee of the board.

(3) Each of the persons appointed under subsection 2 who are not members of the board shall have the qualifications required for members of the board that appointed them and shall hold office during the term of the members of the board and until the new board is organized. Idem

(4) Section 202 applies with necessary modifications to a member of a committee established under subsection 2. Application of s. 202

(5) One of the members of a committee appointed by a board of education under clause *d* of subsection 2 shall be a member of the board of education elected by separate school electors. Members of committee

Local
associations

(6) A board that establishes a committee under subsection 2 shall select as one of the local associations for the purposes of clause *a* of subsection 2 a local association as defined in clause *c* of subsection 1 of section 69.

Requirements
for advisory
committee

(7) An advisory committee on schools for trainable retarded pupils, established under subsection 1 of section 72, shall satisfy the requirements for a committee under this section where,

- (a) a representative from each of the local associations, not to exceed twelve, and none of which is a local association as defined in clause *c* of subsection 1 of section 69, is added to the advisory committee on schools for trainable retarded pupils;
- (b) the board appoints to the said advisory committee a person as referred to in clause *b* or *c* of subsection 2 where the board provides a French-language instructional unit as therein referred to; and
- (c) in the case of an advisory committee established by a divisional board of education, one of the members appointed under clause *b* of subsection 2 of section 72 is a member of such board elected by separate school electors,

and such advisory committee may make recommendations as provided in subsection 8.

Recommendations

(8) A committee established under subsection 2 may make recommendations to the board in respect of any matter affecting the establishment and development of special education programs and services in respect of exceptional pupils of the board.

Application
of ss. 72 (5, 6),
73 and 74

(9) Subsections 5 and 6 of section 72, section 73 and section 74 apply with necessary modifications to a committee established under subsection 2.

Members
of
committee

(10) A district school area board, a Protestant separate school board, a combined separate school board and a rural separate school board shall appoint a committee consisting of two members appointed by the school board from among its members and two members appointed by the local associations in the area of jurisdiction of the school board, or where no such local association or associations have been established, two members appointed by the school board who are not members of such board.

Selection
by board

(11) For the purposes of subsections 2 and 7, where there are more than twelve local associations in the area of jurisdiction of

the board, the board shall select the twelve local associations that shall be represented.

- 21.** Subsection 3 of section 205 of the said Act is amended by inserting after "1" in the third line "for" and by adding thereto the following clauses:

s. 205 (3),
amended

- (a) where there is no designation by the Lieutenant Governor in Council under clause *b*, the years 1981, 1982, 1983 and 1984 and commencing with the year 1985 and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1; or
- (b) where there is a designation by the Lieutenant Governor in Council, the year 1981 and such year or years as may be designated by the Lieutenant Governor in Council and commencing with the year designated by the Lieutenant Governor in Council and for each subsequent year thereafter such cost of operation shall be included in the estimates for public school purposes under subsection 1.

- 22.** The said Act is further amended by adding thereto the following section:

s. 271a,
enacted

PART XI-A

TRANSITIONAL PROVISIONS

271a.—(1) Where the Lieutenant Governor in Council designates a date for the purposes of subsections 5 and 6 of section 32, subsection 3 of section 37, subsection 1 of section 45 and subsection 3 of section 205 or any of them, such designation may have general application or may relate to such board or boards as may be set out in the designation.

Date and
scope of
designation

(2) Where the Lieutenant Governor in Council designates a date for the purposes of subsection 5 of section 32 and subsection 3 of section 205 in respect of a divisional board, subsection 5 of section 53 ceases to apply to such divisional board.

Application
of s. 53 (5)

(3) Effective the date designated by the Lieutenant Governor in Council for the purposes of subsection 3 of section 37, or the 31st day of December, 1984, whichever occurs first, in relation to The Metropolitan Separate School Board and The Metropolitan Toronto School Board, subsection 4 of section 37 ceases to operate and the cost of operation of schools for trainable retarded children operated by The Metropolitan Toronto School Board shall be included in the estimates of such board for public elementary school purposes.

Application
and
operation
of s. 37 (4)

Commence-
ment

23. This Act comes into force on the day it receives Royal Assent.

Short title

24. The short title of this Act is *The Education Amendment Act, 1980*.

An Act to amend
The Education Act, 1974

1st Reading

May 23rd, 1980

2nd Reading

June 17th, 1980

3rd Reading

December 2nd, 1980

THE HON. B. STEPHENSON
Minister of Education and
Minister of Colleges and Universities

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Ontario Human Rights Code

MR. DAVISON

EXPLANATORY NOTE

The purpose of this Bill is to make sexual harassment in the workplace a breach of human rights, and to provide a remedy for sexual harassment in the workplace.

BILL 83

1980

An Act to amend The Ontario Human Rights Code

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of *The Ontario Human Rights Code*, being chapter 318 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 119, section 5 and amended by 1974, chapter 73, sections 2 and 3, is further amended by adding thereto the following subsection:

(1a) No person shall,

Section 4,
amended

Sexual
harassment

- (a) refuse or threaten to refuse to employ any person;
- (b) dismiss or threaten to dismiss an employee;
- (c) discipline or threaten to discipline an employee;
- (d) suspend or threaten to suspend an employee;
- (e) refuse or threaten to refuse to train, promote or transfer an employee;
- (f) impose or threaten to impose any penalty upon an employee;
- (g) intimidate or coerce an employee,

because of that person's rejection of sexual advances or their refusal to consent to sexual contact or sexual intercourse.

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Ontario Human Rights Code Amendment Act, 1980*.

Commence-
ment

Short title

An Act to amend
The Ontario Human Rights Code

1st Reading

May 23rd, 1980

2nd Reading

3rd Reading

MR. DAVISON

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Municipal Act

MR. DAVISON

EXPLANATORY NOTE

The purpose of the Bill is to authorize municipalities to provide health insurance benefits to retired employees.

BILL 84

1980

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of paragraph 66 of section 352 of *The Municipal Act*, being chapter 284 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

s. 352,
par. 66(a),
re-enacted

 - (a) In this paragraph, "employee" means an employee as defined in paragraph 64 and a retired employee.
2. Clause *a* of paragraph 67 of section 352 of the said Act is repealed and the following substituted therefor:

s. 352,
par. 67(a),
re-enacted

 - (a) In this paragraph, "employee" means an employee as defined in paragraph 64 and a retired employee.
3. This Act comes into force on the day it receives Royal Assent.

Commence-
ment
4. The short title of this Act is *The Municipal Amendment Act, 1980*.

Short title

An Act to amend The Municipal Act

1st Reading

May 23rd, 1980

2nd Reading

3rd Reading

MR. DAVISON

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to revise The Limited Partnerships Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The purpose of the Bill is to revise the law governing limited partnerships in Ontario. This revision follows similar revisions in several other jurisdictions of Canada, including Alberta and Saskatchewan. Among the significant features of the Bill are the following:

1. A limited partnership is formed when a declaration is filed in accordance with the Act. Any changes in the composition of the limited partnership must be disclosed by filing a declaration of change with the Registrar of Partnerships.
2. The Bill limits the circumstances in which a limited partner loses his limited liability and becomes liable as a general partner. Section 12 of the existing *Limited Partnerships Act* states that a limited partner becomes liable as a general partner whenever any change takes place in the partnership name, the names of the partners or in the nature or capital of the business. The new Act discontinues this provision.
3. Limited partnerships that are organized in a jurisdiction outside Ontario and that carry on business in Ontario are required to file a declaration with the Registrar of Partnerships.
4. *The Limited Partnerships Act, 1980*, when it is proclaimed in force, will apply to all existing limited partnerships in Ontario. Limited partnerships that have been organized outside Ontario are permitted sixty days after the commencement of the Act to comply with the registration requirements.

BILL 85 **1980**

An Act to revise The Limited Partnerships Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

**Interpre-
tation**

- (a) "business" includes every trade, occupation and profession;
- (b) "extra-provincial limited partnership" means a limited partnership organized under the laws of a jurisdiction other than Ontario;
- (c) "prescribed" means prescribed in the regulations; and
- (d) "Registrar" means the Registrar of Partnerships.

2.—(1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on.

**Limited
partnership**

(2) A limited partnership shall consist of one or more persons who are general partners and one or more persons who are limited partners.

**Whom to
consist**

3.—(1) A limited partnership is formed when a declaration is filed with the Registrar in accordance with this Act.

Formation

(2) A declaration shall be signed by all of the partners desiring to form a limited partnership and shall state,

Declaration

- (a) the firm name under which the limited partnership is to be conducted;
- (b) the general nature of the business;
- (c) the names of the partners, general and limited partners being respectively designated and for each partner,

- (i) the surname of the partner,
- (ii) the first or other given name by which the partner is commonly known,
- (iii) the first letters of the other given names, if any, of the partner, and
- (iv) the residence address or address for service of the partner, including the street name and number, if any;
- (d) the value of money and other property contributed or to be contributed by each limited partner;
- (e) the principal place of business in Ontario of the limited partnership and the address, giving street name and number, if any, where the principal place of business is located;
- (f) such other information as is required by the regulations made under this Act.

Expiry of
declaration

(3) Every declaration filed under subsection 1, including a declaration filed by an extra-provincial limited partnership, expires five years after its date of filing unless the declaration is cancelled by filing a declaration of dissolution or the declaration is replaced by filing a new declaration before the expiry date.

Subsequent
filing of
new
declaration

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in a prescribed amount is payable for the subsequent filing of a new declaration.

Partnerships
Registration
Act
R.S.O. 1970,
c.340

(5) Where a declaration is filed under this Act, a declaration is not required to be filed under *The Partnerships Registration Act*.

Filing and
recording

(6) The provisions of *The Partnerships Registration Act*, except sections 8a and 15a, and the regulations thereunder, applying to the filing and recording of declarations under that Act apply with necessary modifications to declarations under this Act.

General and
limited
partners

4.—(1) A person may be a general partner and a limited partner at the same time in the same limited partnership.

Idem

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of his contribution as a limited partner he has the same rights against the other partners as a limited partner.

5.—(1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners.

Restriction
in name of
partnership

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection 1, the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner.

Liability
if limited
partner

(3) Notwithstanding section 10 of *The Business Corporations Act*, the word "Limited" may be used in conjunction with the word "Partnership" in the firm name.

Use of term
limited
R.S.O. 1970,
c. 53

6.—(1) A limited partner may contribute money and other property to the limited partnership, but not services.

Contribution
of limited
partner

(2) A limited partner's interest in the limited partnership is personal property.

Personal
property

7. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to,

Rights of
general
partners

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose;
- (e) admit a person as a general partner;
- (f) admit a person as a limited partner, unless the right to do so is given in the partnership agreement; or
- (g) continue the business of the limited partnership on the death, retirement or mental incompetence of a general partner or dissolution of a corporate general partner, unless the right to do so is given in the partnership agreement.

Liability of
limited
partner

8. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property he contributes or agrees to contribute to the limited partnership, as stated in the declaration.

Rights of
limited
partner

9. A limited partner has the same right as a general partner,

- (a) to inspect and make copies of or take extracts from the limited partnership books at all times;
- (b) to be given, on demand, true and full information concerning all matters affecting the limited partnership, and to be given a complete and formal account of the partnership affairs; and
- (c) to obtain dissolution of the limited partnership by court order.

Share of
profits

10.—(1) A limited partner has, subject to this Act, the right,

- (a) to a share of the profits or other compensation by way of income; and
- (b) to have his contribution to the limited partnership returned.

When profit
may not be
paid

(2) No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Business
dealings
by limited
partner with
partnership

11.—(1) A limited partner may loan money to and transact other business with the limited partnership and, unless he is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners.

Rights of
limited
partner

(2) A limited partner may from time to time,

- (a) examine into the state and progress of the limited partnership business and may advise as to its management;
- (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
- (c) act as a surety for the limited partnership.

12.—(1) A limited partner is not liable as a general partner unless, in addition to exercising his rights and powers as a limited partner, he takes part in the control of the business. Limited partner in control of business

(2) For the purposes of subsection 1, a limited partner shall not be presumed to be taking part in the control of the business by reason only that the limited partner exercises rights and powers in addition to the rights and powers conferred upon the limited partner by this Act. Additional rights and powers

13.—(1) Subject to subsection 2, limited partners, in relation to one another, share in the limited partnership assets, Limited partners' rights as between themselves

(a) for the return of contributions; and

(b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership.

(2) Where there are several limited partners, the partners may agree that one or more of the limited partners is to have priority over other limited partners, Priority agreement

(a) as to the return of contributions;

(b) as to profits or other compensation by way of income; or

(c) as to any other matter,

but the terms of this agreement shall be set out in the partnership agreement.

(3) Where the partnership agreement does not contain an agreement referred to in subsection 2, the shares of the limited partners in the partnership assets shall be determined in accordance with subsection 1. Idem

Return of
limited
partner's
contribution

14.—(1) A limited partner has the right to demand and receive the return of his contribution,

- (a) upon the dissolution of the limited partnership;
- (b) when the time specified in the partnership agreement for the return of the contribution occurs;
- (c) after he has given six months notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or
- (d) when all the partners consent to the return of the contribution.

Idem

(2) Notwithstanding subsection 1, a limited partner is not entitled to receive any part of his contribution out of the limited partnership assets or from a general partner until,

- (a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains sufficient limited partnership assets to pay them; and
- (b) the partnership agreement is terminated or so amended, if necessary, to set forth the withdrawal or reduction of the contribution.

Idem

(3) A limited partner has, irrespective of the nature of his contribution, only the right to demand and receive money in return therefor, unless,

- (a) the partnership agreement provides otherwise; or
- (b) all the partners consent to some other manner of returning the contribution.

Dissolution

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where,

- (a) the limited partner is entitled to the return of his contribution but, upon demand, the contribution is not returned to him; or
- (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause *a* of subsection 2 and the limited partner seeking dissolution would otherwise be entitled to the return of his contribution.

15.—(1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by him to the limited partnership and the value of money or other property stated in the declaration as being contributed or to be contributed by him to the limited partnership. Limited partner's liability to partnership

(2) A limited partner holds as trustee for the limited partnership, Limited partner as trustee

(a) specific property stated in the partnership agreement as contributed by him, but which has not in fact been contributed or which has been returned contrary to this Act; and

(b) money or other property paid or conveyed to him on account of his contribution contrary to this Act.

(3) Where a limited partner has received the return of all or part of his contribution, he is nevertheless liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution. Idem

16. After the formation of the limited partnership, additional limited partners may be admitted by amendment of the declaration in accordance with section 18. Admission of additional limited partners

17.—(1) A limited partner's interest is assignable. Interest assignable

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned his interest in the limited partnership. Limited partner

(3) An assignee who is not a substituted limited partner has no right, Rights of assignee

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled.

(4) An assignee may become a substituted limited partner, Manner of becoming a substituted limited partner

- (a) if all the partners, except the assignor, consent in writing thereto; or
- (b) if the assignor, being so authorized by the partnership agreement, constitutes the assignee a substituted limited partner.

Idem (5) An assignee, who is otherwise entitled to become a substituted limited partner, becomes a substituted limited partner when the declaration is amended in accordance with section 18.

Rights, liabilities of substituted limited partner (6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of his assignor, except any liability of which he did not have notice at the time he became a limited partner and which could not be ascertained from the partnership agreement or the declaration.

Liability of assignor (7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 15 or 27.

Change of firm name **18.—**(1) Where the firm name of a limited partnership is to be changed, a new declaration shall be filed with the Registrar under subsection 2 of section 3.

Declaration of change (2) A declaration of change shall be filed with the Registrar for every change in information, other than a change in the firm name, required to be stated in the declaration under subsection 2 of section 3.

Signing of declaration (3) A declaration of change shall be signed by at least one of the general partners.

Idem (4) A declaration of change for information required by clauses *c* and *d* of subsection 2 of section 3 shall also be signed by the limited partner or substituted limited partner who is the subject of the change.

Change not effective (5) For the purposes of this Act, a change referred to in subsection 2 does not take effect until a declaration of change is filed with the Registrar.

Expiry (6) A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change.

Failure to file declaration of change **19.—**(1) No limited partnership in respect of which a new declaration or a declaration of change has not been filed as required by section 18 and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the limited partnership.

(2) Where a new declaration or declaration of change is filed after an action or proceeding is commenced by the limited partnership or member thereof, the action or proceeding may be continued as if the declaration had been filed in accordance with this Act prior to the institution of the action or proceeding.

Continuation
of action

20. The retirement, death or mental incompetence of a general partner or dissolution of a corporate general partner dissolves a limited partnership unless the business is continued by the remaining general partners,

Dissolution
of limited
partnership

(a) pursuant to a right to do so contained in the partnership agreement; and

(b) with the consent of all the remaining partners.

21.—(1) The executor or administrator of the estate of a limited partner has,

Death of
limited
partner

(a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and

(b) whatever power the limited partner had under the partnership agreement to constitute his assignee a substituted limited partner.

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner.

Liability

22.—(1) A declaration of dissolution shall be filed with the Registrar when,

Declaration
of
dissolution

(a) the limited partnership is dissolved; or

(b) all of the limited partners cease to be limited partners.

(2) The declaration of dissolution shall be signed by at least one of the general partners.

Idem

(3) When the declaration of dissolution is filed, the declaration filed under subsection 2 of section 3 is cancelled.

Declaration
cancelled

23. In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, unless the partnership agreement or a subsequent agreement provides otherwise, shall be paid in the following order:

Settling
accounts
on
dissolution

1. to limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions;
2. to limited partners in respect of their contributions;
3. to general partners other than for capital and profits;
4. to general partners in respect of profits;
5. to general partners in respect of capital.

Declaration

24.—(1) No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 2 of section 3 and states the jurisdiction in which the extra-provincial limited partnership is organized.

Carry on
business

(2) For the purposes of this section, an extra-provincial limited partnership carries on business in Ontario if,

- (a) it solicits business in Ontario;
- (b) its name is listed in a telephone directory for any part of Ontario;
- (c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;
- (d) it has a resident agent or representative or a warehouse, office or place of business in Ontario;
- (e) it owns real property situate in Ontario;
- (f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with *The Securities Act, 1978* and the regulations made thereunder; or
- (g) it otherwise carries on business in Ontario.

1978, c. 47

Signing
of
declaration

(3) The declaration filed under subsection 1 shall be signed by all of the partners.

Power of
attorney

(4) When a declaration is filed under subsection 1, the extra-provincial limited partnership shall file with the Registrar a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership.

(5) Where there is a change in the firm name of an extra-provincial limited partnership, a new declaration and power of attorney shall be filed with the Registrar under this section. Change of firm name

(6) Where there is a change in the name or address of the attorney and representative in Ontario of an extra-provincial limited partnership, a new power of attorney shall be filed under this section. Change in name and address of attorney

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for every change in the information, other than a change in the firm name, contained in the declaration filed under subsection 1 and the declaration shall be signed in the manner described in section 18. Declaration of change

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners. Declaration of withdrawal

25.—(1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it transacts business in Ontario without filing the declaration and power of attorney required by this Act. Liability of limited partner

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners. Laws applicable to extra-provincial limited partnerships

26.—(1) No extra-provincial limited partnership in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the extra-provincial limited partnership. Failure to file declaration, power of attorney

(2) When a declaration and power of attorney are filed in accordance with this Act, an action or proceeding referred to in subsection 1 may be continued as if the declaration and power of attorney had been filed in accordance with this Act prior to the institution of the action or proceeding. Continuation of action

27. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable, Effect of false statement in declaration

- (a) every partner who knew when he signed the declaration that the statement was false or misleading;

- (b) every general partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change; and
- (c) every limited partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to take steps to cause a declaration of change to be filed.

Liability of
person
mistakenly
believing
he is a
limited
partner

28. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that he has become a limited partner in a limited partnership,

- (a) is not, by reason only of his exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that he is not a limited partner, he promptly,

- (c) renounces his interest in the profits or other compensation by way of income from the business; or
- (d) takes steps to cause a declaration to be filed with the Registrar showing the person to be a limited partner.

Authority
to sign

29.—(1) A general or limited partner may give written authority to any other person to sign on his behalf any document referred to in this Act.

Idem

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection 1 shall indicate in the document that he signs on behalf of a general or limited partner.

Access to
documents

30.—(1) Every partnership shall keep at its principal place of business in Ontario,

- (a) a copy of the partnership agreement;
- (b) a copy of the declaration and a copy of each declaration of change amending the declaration;
- (c) a copy of any court order made under section 31;
- (d) a copy of any written authority given under subsection 1 of section 29; and

- (e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar.

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection 1 shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 4 of section 24. Where no principal place of business

(3) Any partner may inspect any of the documents referred to in subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Right to inspect

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses *b*, *c*, *d* and *e* of subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Idem

31.—(1) In this section, "Court" means the Supreme Court of Ontario. Interpretation

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any other order that the Court considers appropriate in the circumstances. Order for compliance

(3) An application may be made under subsection 2 notwithstanding the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law, Application

32.—(1) Every person who, Offences

(a) contravenes any provision of this Act or the regulations; or

(b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

False
statements
wilful

(2) No person is guilty of an offence referred to in clause *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Liability of
directors
and
officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Regulations

33. The Lieutenant Governor in Council may make regulations,

- (a) prescribing fees for the purposes of this Act;
- (b) respecting additional information to be included in a declaration filed under this Act;
- (c) prescribing forms and providing for their use.

Transition

R.S.O. 1970,
c. 247

34.—(1) A limited partnership in existence on the day before the day this Act comes into force is continued under this Act and a certificate filed by such a limited partnership under *The Limited Partnerships Act* shall be deemed to be a declaration filed under subsection 2 of section 3 of this Act, but such declaration expires on the date shown on the certificate.

Idem

(2) Notwithstanding section 24, an extra-provincial limited partnership may carry on business in Ontario without filing a declaration and power of attorney for sixty days after the day this Act comes into force.

Repeals

35. *The Limited Partnerships Act*, being chapter 247 of the Revised Statutes of Ontario, 1970 and *The Limited Partnerships Amendment Act, 1973*, being chapter 26, are repealed.

Commence-
ment

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

37. The short title of this Act is *The Limited Partnerships Act, 1980*.

An Act to revise
The Limited Partnerships Act

1st Reading

May 27th, 1980

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and Commercial
Relations

(*Government Bill*)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to revise The Limited Partnerships Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The purpose of the Bill is to revise the law governing limited partnerships in Ontario. This revision follows similar revisions in several other jurisdictions of Canada, including Alberta and Saskatchewan. Among the significant features of the Bill are the following:

1. A limited partnership is formed when a declaration is filed in accordance with the Act. Any changes in the composition of the limited partnership must be disclosed by filing a declaration of change with the Registrar of Partnerships.
2. The Bill limits the circumstances in which a limited partner loses his limited liability and becomes liable as a general partner. Section 12 of the existing *Limited Partnerships Act* states that a limited partner becomes liable as a general partner whenever any change takes place in the partnership name, the names of the partners or in the nature or capital of the business. The new Act discontinues this provision.
3. Limited partnerships that are organized in a jurisdiction outside Ontario and that carry on business in Ontario are required to file a declaration with the Registrar of Partnerships.
4. *The Limited Partnerships Act, 1980*, when it is proclaimed in force, will apply to all existing limited partnerships in Ontario. Limited partnerships that have been organized outside Ontario are permitted sixty days after the commencement of the Act to comply with the registration requirements.

BILL 85

1980

An Act to revise The Limited Partnerships Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "business" includes every trade, occupation and profession;
- (b) "extra-provincial limited partnership" means a limited partnership organized under the laws of a jurisdiction other than Ontario;
- (c) "person" includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator or other legal representative;
- (d) "prescribed" means prescribed in the regulations; and
- (e) "Registrar" means the Registrar of Partnerships.

2.—(1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on.

Limited
partnership

(2) A limited partnership shall consist of one or more persons who are general partners and one or more persons who are limited partners.

Whom to
consist

3.—(1) A limited partnership is formed when a declaration is filed with the Registrar in accordance with this Act.

Formation

(2) A declaration shall be signed by all of the partners desiring to form a limited partnership and shall state,

Declaration

- (a) the firm name under which the limited partnership is to be conducted;
- (b) the general nature of the business;
- (c) the names of the partners, general and limited partners being respectively designated and for each partner,
 - (i) the surname of the partner,
 - (ii) the first or other given name by which the partner is commonly known,
 - (iii) the first letters of the other given names, if any, of the partner, and
 - (iv) the residence address or address for service of the partner, including the street name and number, if any;
- (d) the value of money and other property contributed or to be contributed by each limited partner;
- (e) the principal place of business in Ontario of the limited partnership and the address, giving street name and number, if any, where the principal place of business is located;
- (f) such other information as is required by the regulations made under this Act.

Expiry of
declaration

(3) Every declaration filed under subsection 1, including a declaration filed by an extra-provincial limited partnership, expires five years after its date of filing unless the declaration is cancelled by filing a declaration of dissolution or the declaration is replaced by filing a new declaration before the expiry date.

Subsequent
filing of
new
declaration

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in a prescribed amount is payable for the subsequent filing of a new declaration.

Partnerships
Registration
Act
R.S.O. 1970,
c.340

(5) Where a declaration is filed under this Act, a declaration is not required to be filed under *The Partnerships Registration Act*.

Filing and
recording



(6) The provisions of *The Partnerships Registration Act*, except sections 8a and 15a, and the regulations thereunder, applying to the filing and recording of declarations under that Act apply with necessary modifications to declarations under this Act.

4.—(1) A person may be a general partner and a limited partner at the same time in the same limited partnership. General and limited partners

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of his contribution as a limited partner he has the same rights against the other partners as a limited partner. Idem

5.—(1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners. Restriction in name of partnership

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection 1, the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner. Liability if limited partner

 (3) Notwithstanding any Act, the word "Limited" may be used in the firm name but only in the expression "Limited Partnership". Use of term limited 

6.—(1) A limited partner may contribute money and other property to the limited partnership, but not services. Contribution of limited partner

(2) A limited partner's interest in the limited partnership is personal property. Personal property

7. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to, Rights of general partners

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose;

- (e) admit a person as a general partner;
- (f) admit a person as a limited partner, unless the right to do so is given in the partnership agreement; or
- (g) continue the business of the limited partnership on the death, retirement or mental incompetence of a general partner or dissolution of a corporate general partner, unless the right to do so is given in the partnership agreement.

Liability of
limited
partner

8. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property he contributes or agrees to contribute to the limited partnership, as stated in the declaration.

Rights of
limited
partner

9. A limited partner has the same right as a general partner,

- (a) to inspect and make copies of or take extracts from the limited partnership books at all times;
- (b) to be given, on demand, true and full information concerning all matters affecting the limited partnership, and to be given a complete and formal account of the partnership affairs; and
- (c) to obtain dissolution of the limited partnership by court order.

Share of
profits

10.—(1) A limited partner has, subject to this Act, the right,

- (a) to a share of the profits or other compensation by way of income; and
- (b) to have his contribution to the limited partnership returned.

When profit
may not be
paid

(2) No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Business
dealings
by limited
partner with
partnership

11.—(1) A limited partner may loan money to and transact other business with the limited partnership and, unless he is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners.

(2) A limited partner may from time to time,

Rights of
limited
partner

- (a) examine into the state and progress of the limited partnership business and may advise as to its management;
- (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
- (c) act as a surety for the limited partnership.

12.—(1) A limited partner is not liable as a general partner unless, in addition to exercising his rights and powers as a limited partner, he takes part in the control of the business.

Limited
partner in
control of
business

(2) For the purposes of subsection 1, a limited partner shall not be presumed to be taking part in the control of the business by reason only that the limited partner exercises rights and powers in addition to the rights and powers conferred upon the limited partner by this Act.

Additional
rights and
powers

13.—(1) Subject to subsection 2, limited partners, in relation to one another, share in the limited partnership assets,

Limited
partners'
rights as
between
themselves

- (a) for the return of contributions; and
- (b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership.

(2) Where there are several limited partners, the partners may agree that one or more of the limited partners is to have priority over other limited partners,

Priority
agreement

- (a) as to the return of contributions;

(b) as to profits or other compensation by way of income; or

(c) as to any other matter,

but the terms of this agreement shall be set out in the partnership agreement.

Idem

(3) Where the partnership agreement does not contain an agreement referred to in subsection 2, the shares of the limited partners in the partnership assets shall be determined in accordance with subsection 1.

Return of
limited
partner's
contribution

14.—(1) A limited partner has the right to demand and receive the return of his contribution,

(a) upon the dissolution of the limited partnership;

(b) when the time specified in the partnership agreement for the return of the contribution occurs;

(c) after he has given six months notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or

(d) when all the partners consent to the return of the contribution.

Idem

(2) Notwithstanding subsection 1, a limited partner is not entitled to receive any part of his contribution out of the limited partnership assets or from a general partner until,

(a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains sufficient limited partnership assets to pay them; and

(b) the partnership agreement is terminated or so amended, if necessary, to set forth the withdrawal or reduction of the contribution.

Idem

(3) A limited partner has, irrespective of the nature of his contribution, only the right to demand and receive money in return therefor, unless,

(a) the partnership agreement provides otherwise; or

(b) all the partners consent to some other manner of returning the contribution.

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where, Dissolution

- (a) the limited partner is entitled to the return of his contribution but, upon demand, the contribution is not returned to him; or
- (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause *a* of subsection 2 and the limited partner seeking dissolution would otherwise be entitled to the return of his contribution.

15.—(1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by him to the limited partnership and the value of money or other property stated in the declaration as being contributed or to be contributed by him to the limited partnership. Limited partner's liability to partnership

(2) A limited partner holds as trustee for the limited partnership, Limited partner as trustee

- (a) specific property stated in the partnership agreement as contributed by him, but which has not in fact been contributed or which has been returned contrary to this Act; and
- (b) money or other property paid or conveyed to him on account of his contribution contrary to this Act.

(3) Where a limited partner has received the return of all or part of his contribution, he is nevertheless liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution. Idem

16. After the formation of the limited partnership, additional limited partners may be admitted by amendment of the declaration in accordance with section 18. Admission of additional limited partners

17.—(1) A limited partner's interest is assignable. Interest assignable

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned his interest in the limited partnership. Limited partner

Rights of
assignee

(3) An assignee who is not a substituted limited partner has no right,

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled.

Manner of
becoming a
substituted
limited
partner

(4) An assignee may become a substituted limited partner,

(a) if all the partners, except the assignor, consent in writing thereto; or

(b) if the assignor, being so authorized by the partnership agreement, constitutes the assignee a substituted limited partner.

Idem

(5) An assignee, who is otherwise entitled to become a substituted limited partner, becomes a substituted limited partner when the declaration is amended in accordance with section 18.

Rights,
liabilities
of
substituted
limited
partner

(6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of his assignor, except any liability of which he did not have notice at the time he became a limited partner and which could not be ascertained from the partnership agreement or the declaration.

Liability
of
assignor

(7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 15 or 27.

Change of
firm name

18.—(1) Where the firm name of a limited partnership is to be changed, a new declaration shall be filed with the Registrar under subsection 2 of section 3.

Declaration
of change

(2) A declaration of change shall be filed with the Registrar for every change in information, other than a change in the firm name, required to be stated in the declaration under subsection 2 of section 3.

Signing
of
declaration

(3) A declaration of change shall be signed by at least one of the general partners.

Idem

(4) A declaration of change for information required by clauses *c* and *d* of subsection 2 of section 3 shall also be signed by the limited partner or substituted limited partner who is the subject of the change.

(5) For the purposes of this Act, a change referred to in subsection 2 does not take effect until a declaration of change is filed with the Registrar. Change not effective

(6) A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change. Expiry

19.—(1) No limited partnership in respect of which a new declaration or a declaration of change has not been filed as required by section 18 and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the limited partnership. Failure to file declaration of change

(2) Where a new declaration or declaration of change is filed after an action or proceeding is commenced by the limited partnership or member thereof, the action or proceeding may be continued as if the declaration had been filed in accordance with this Act prior to the institution of the action or proceeding. Continuation of action

20. The retirement, death or mental incompetence of a general partner or dissolution of a corporate general partner dissolves a limited partnership unless the business is continued by the remaining general partners, Dissolution of limited partnership

(a) pursuant to a right to do so contained in the partnership agreement; and

(b) with the consent of all the remaining partners.

21.—(1) The executor or administrator of the estate of a limited partner has, Death of limited partner

(a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and

(b) whatever power the limited partner had under the partnership agreement to constitute his assignee a substituted limited partner.

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner. Liability

22.—(1) A declaration of dissolution shall be filed with the Registrar when, Declaration of dissolution

(a) the limited partnership is dissolved; or

(b) all of the limited partners cease to be limited partners.

Idem

(2) The declaration of dissolution shall be signed by at least one of the general partners.

Declaration
cancelled

(3) When the declaration of dissolution is filed, the declaration filed under subsection 2 of section 3 is cancelled.

Settling
accounts
on
dissolution

23. In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, unless the partnership agreement or a subsequent agreement provides otherwise, shall be paid in the following order:

1. to limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions;
2. to limited partners in respect of their contributions;
3. to general partners other than for capital and profits;
4. to general partners in respect of profits;
5. to general partners in respect of capital.

Declaration

24.—(1) No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 2 of section 3 and states the jurisdiction in which the extra-provincial limited partnership is organized.

Carry on
business

(2) For the purposes of this section, an extra-provincial limited partnership carries on business in Ontario if,

- (a) it solicits business in Ontario;
- (b) its name is listed in a telephone directory for any part of Ontario;
- (c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;
- (d) it has a resident agent or representative or a warehouse, office or place of business in Ontario;
- (e) it owns real property situate in Ontario;

(f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with *The Securities Act, 1978* and the regulations made thereunder; or 1978, c. 47

(g) it otherwise carries on business in Ontario.

(3) The declaration filed under subsection 1 shall be signed by all of the partners. Signing of declaration

(4) When a declaration is filed under subsection 1, the extra-provincial limited partnership shall file with the Registrar a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership. Power of attorney

(5) Where there is a change in the firm name of an extra-provincial limited partnership, a new declaration and power of attorney shall be filed with the Registrar under this section. Change of firm name

(6) Where there is a change in the name or address of the attorney and representative in Ontario of an extra-provincial limited partnership, a new power of attorney shall be filed under this section. Change in name and address of attorney

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for every change in the information, other than a change in the firm name, contained in the declaration filed under subsection 1 and the declaration shall be signed in the manner described in section 18. Declaration of change

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners. Declaration of withdrawal

25.—(1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it carries on business in Ontario without filing the declaration and power of attorney required by this Act. Liability of limited partner

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners. Laws applicable to extra-provincial limited partnerships

26.—(1) No extra-provincial limited partnership in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of main- Failure to file declaration, power of attorney

taining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the extra-provincial limited partnership.

Continuation
of action

(2) When a declaration and power of attorney are filed in accordance with this Act, an action or proceeding referred to in subsection 1 may be continued as if the declaration and power of attorney had been filed in accordance with this Act prior to the institution of the action or proceeding.

Effect of
false
statement
in
declaration

27. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

- (a) every partner who knew when he signed the declaration that the statement was false or misleading;
- (b) every general partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change; and
- (c) every limited partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to take steps to cause a declaration of change to be filed.

Liability of
person
mistakenly
believing
he is a
limited
partner

28. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that he has become a limited partner in a limited partnership,

- (a) is not, by reason only of his exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that he is not a limited partner, he promptly,

- (c) renounces his interest in the profits or other compensation by way of income from the business; or
- (d) takes steps to cause a declaration to be filed with the Registrar showing the person to be a limited partner.

29.—(1) A general or limited partner may give written authority to any other person to sign on his behalf any document referred to in this Act. Authority to sign

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection 1 shall indicate in the document that he signs on behalf of a general or limited partner. Idem

30.—(1) Every partnership shall keep at its principal place of business in Ontario, Access to documents

- (a) a copy of the partnership agreement;
- (b) a copy of the declaration and a copy of each declaration of change amending the declaration;
- (c) a copy of any court order made under section 31;
- (d) a copy of any written authority given under subsection 1 of section 29; and
- (e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar.

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection 1 shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 4 of section 24. Where no principal place of business

(3) Any partner may inspect any of the documents referred to in subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Right to inspect

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses *b*, *c*, *d* and *e* of subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Idem

31.—(1) In this section, "Court" means the Supreme Court of Ontario. Interpretation

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any Order for compliance

other order that the Court considers appropriate in the circumstances.

Application

(3) An application may be made under subsection 2 notwithstanding the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law,

Offences

32.—(1) Every person who,

- (a) contravenes any provision of this Act or the regulations; or
- (b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

False statements wilful

(2) No person is guilty of an offence referred to in clause *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Liability of directors and officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Regulations

33. The Lieutenant Governor in Council may make regulations,

- (a) prescribing fees for the purposes of this Act;
- (b) respecting additional information to be included in a declaration filed under this Act;
- (c) prescribing forms and providing for their use.

Transition

R.S.O. 1970,
c. 247

34.—(1) A limited partnership in existence on the day before the day this Act comes into force is continued under this Act and a certificate filed by such a limited partnership under *The Limited*

Partnerships Act shall be deemed to be a declaration filed under subsection 2 of section 3 of this Act, but such declaration expires on the date shown on the certificate.

(2) Notwithstanding section 24, an extra-provincial limited partnership may carry on business in Ontario without filing a declaration and power of attorney for sixty days after the day this Act comes into force. Idem

35. *The Limited Partnerships Act*, being chapter 247 of the Revised Statutes of Ontario, 1970 and *The Limited Partnerships Amendment Act, 1973*, being chapter 26, are repealed. Repeals

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

37. The short title of this Act is *The Limited Partnerships Act*, Short title
1980.

An Act to revise
The Limited Partnerships Act

1st Reading

May 27th, 1980

2nd Reading

October 7th, 1980

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and Commercial
Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 85

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to revise The Limited Partnerships Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

TORONTO

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BILL 85

1980

An Act to revise The Limited Partnerships Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "business" includes every trade, occupation and profession;
- (b) "extra-provincial limited partnership" means a limited partnership organized under the laws of a jurisdiction other than Ontario;
- (c) "person" includes an individual, sole proprietorship, partnership, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and a natural person in his capacity as trustee, executor, administrator or other legal representative;
- (d) "prescribed" means prescribed in the regulations; and
- (e) "Registrar" means the Registrar of Partnerships.

2.—(1) A limited partnership may, subject to this Act, be formed to carry on any business that a partnership without limited partners may carry on. Limited
partnership

(2) A limited partnership shall consist of one or more persons who are general partners and one or more persons who are limited partners. Whom to
consist

3.—(1) A limited partnership is formed when a declaration is filed with the Registrar in accordance with this Act. Formation

(2) A declaration shall be signed by all of the partners desiring to form a limited partnership and shall state, Declaration

- (a) the firm name under which the limited partnership is to be conducted;
- (b) the general nature of the business;
- (c) the names of the partners, general and limited partners being respectively designated and for each partner,
 - (i) the surname of the partner,
 - (ii) the first or other given name by which the partner is commonly known,
 - (iii) the first letters of the other given names, if any, of the partner, and
 - (iv) the residence address or address for service of the partner, including the street name and number, if any;
- (d) the value of money and other property contributed or to be contributed by each limited partner;
- (e) the principal place of business in Ontario of the limited partnership and the address, giving street name and number, if any, where the principal place of business is located;
- (f) such other information as is required by the regulations made under this Act.

Expiry of
declaration

(3) Every declaration filed under subsection 1, including a declaration filed by an extra-provincial limited partnership, expires five years after its date of filing unless the declaration is cancelled by filing a declaration of dissolution or the declaration is replaced by filing a new declaration before the expiry date.

Subsequent
filing of
new
declaration

(4) A limited partnership is not dissolved if a declaration expires, but an additional fee in a prescribed amount is payable for the subsequent filing of a new declaration.

Partnerships
Registration
Act
R.S.O. 1970,
c.340

(5) Where a declaration is filed under this Act, a declaration is not required to be filed under *The Partnerships Registration Act*.

Filing and
recording

(6) The provisions of *The Partnerships Registration Act*, except sections 8a and 15a, and the regulations thereunder, applying to the filing and recording of declarations under that Act apply with necessary modifications to declarations under this Act.

4.—(1) A person may be a general partner and a limited partner at the same time in the same limited partnership. General and limited partners

(2) A person who is at the same time a general partner and a limited partner in the same limited partnership has the rights and powers and is subject to the restrictions and liabilities of a general partner except that in respect of his contribution as a limited partner he has the same rights against the other partners as a limited partner. Idem

5.—(1) The surname or a distinctive part of the corporate name of a limited partner shall not appear in the firm name of the limited partnership unless it is also the surname or a distinctive part of the corporate name of one of the general partners. Restriction in name of partnership

(2) Where the surname or a distinctive part of the corporate name of a limited partner appears in the firm name contrary to subsection 1, the limited partner is liable as a general partner to any creditor of the limited partnership who has extended credit without actual knowledge that the limited partner is not a general partner. Liability if limited partner

(3) Notwithstanding any Act, the word "Limited" may be used in the firm name but only in the expression "Limited Partnership". Use of term limited

6.—(1) A limited partner may contribute money and other property to the limited partnership, but not services. Contribution of limited partner

(2) A limited partner's interest in the limited partnership is personal property. Personal property

7. A general partner in a limited partnership has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners except that, without the written consent to or ratification of the specific act by all the limited partners, a general partner has no authority to, Rights of general partners

- (a) do any act in contravention of the partnership agreement;
- (b) do any act which makes it impossible to carry on the ordinary business of the limited partnership;
- (c) consent to a judgment against the limited partnership;
- (d) possess limited partnership property, or assign any rights in specific partnership property, for other than a partnership purpose;

- (e) admit a person as a general partner;
- (f) admit a person as a limited partner, unless the right to do so is given in the partnership agreement; or
- (g) continue the business of the limited partnership on the death, retirement or mental incompetence of a general partner or dissolution of a corporate general partner, unless the right to do so is given in the partnership agreement.

Liability of
limited
partner

8. Subject to this Act, a limited partner is not liable for the obligations of the limited partnership except in respect of the value of money and other property he contributes or agrees to contribute to the limited partnership, as stated in the declaration.

Rights of
limited
partner

- 9.** A limited partner has the same right as a general partner,
- (a) to inspect and make copies of or take extracts from the limited partnership books at all times;
 - (b) to be given, on demand, true and full information concerning all matters affecting the limited partnership, and to be given a complete and formal account of the partnership affairs; and
 - (c) to obtain dissolution of the limited partnership by court order.

Share of
profits

- 10.—(1)** A limited partner has, subject to this Act, the right,
- (a) to a share of the profits or other compensation by way of income; and
 - (b) to have his contribution to the limited partnership returned.

When profit
may not be
paid

(2) No payment of a share of the profits or other compensation by way of income shall be made to a limited partner from the assets of the limited partnership or of a general partner if the payment would reduce the assets of the limited partnership to an amount insufficient to discharge the liabilities of the limited partnership to persons who are not general or limited partners.

Business
dealings
by limited
partner with
partnership

11.—(1) A limited partner may loan money to and transact other business with the limited partnership and, unless he is also a general partner, may receive on account of resulting claims against the limited partnership with general creditors a prorated share of the assets, but no limited partner shall, in respect of any such claim,

- (a) receive or hold as collateral security any of the limited partnership property; or
- (b) receive from a general partner or the limited partnership any payment, conveyance or release from liability if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons who are not general or limited partners.

(2) A limited partner may from time to time,

Rights of
limited
partner

- (a) examine into the state and progress of the limited partnership business and may advise as to its management;
- (b) act as a contractor for or an agent or employee of the limited partnership or of a general partner; or
- (c) act as a surety for the limited partnership.

12.—(1) A limited partner is not liable as a general partner unless, in addition to exercising his rights and powers as a limited partner, he takes part in the control of the business.

Limited
partner in
control of
business

(2) For the purposes of subsection 1, a limited partner shall not be presumed to be taking part in the control of the business by reason only that the limited partner exercises rights and powers in addition to the rights and powers conferred upon the limited partner by this Act.

Additional
rights and
powers

13.—(1) Subject to subsection 2, limited partners, in relation to one another, share in the limited partnership assets,

Limited
partners'
rights as
between
themselves

- (a) for the return of contributions; and
- (b) for profits or other compensation by way of income on account of their contributions,

in proportion to the respective amounts of money and other property actually contributed by the limited partners to the limited partnership.

(2) Where there are several limited partners, the partners may agree that one or more of the limited partners is to have priority over other limited partners,

Priority
agreement

- (a) as to the return of contributions;

(b) as to profits or other compensation by way of income; or

(c) as to any other matter,

but the terms of this agreement shall be set out in the partnership agreement.

Idem

(3) Where the partnership agreement does not contain an agreement referred to in subsection 2, the shares of the limited partners in the partnership assets shall be determined in accordance with subsection 1.

Return of
limited
partner's
contribution

14.—(1) A limited partner has the right to demand and receive the return of his contribution,

(a) upon the dissolution of the limited partnership;

(b) when the time specified in the partnership agreement for the return of the contribution occurs;

(c) after he has given six months notice in writing to all other partners, if no time is specified in the partnership agreement for the return of the contribution or for the dissolution of the limited partnership; or

(d) when all the partners consent to the return of the contribution.

Idem

(2) Notwithstanding subsection 1, a limited partner is not entitled to receive any part of his contribution out of the limited partnership assets or from a general partner until,

(a) all liabilities of the limited partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains sufficient limited partnership assets to pay them; and

(b) the partnership agreement is terminated or so amended, if necessary, to set forth the withdrawal or reduction of the contribution.

Idem

(3) A limited partner has, irrespective of the nature of his contribution, only the right to demand and receive money in return therefor, unless,

(a) the partnership agreement provides otherwise; or

(b) all the partners consent to some other manner of returning the contribution.

(4) A limited partner is entitled to have the limited partnership dissolved and its affairs wound up where, Dissolution

- (a) the limited partner is entitled to the return of his contribution but, upon demand, the contribution is not returned to him; or
- (b) the other liabilities of the limited partnership have not been paid or the limited partnership assets are insufficient for their payment as required by clause *a* of subsection 2 and the limited partner seeking dissolution would otherwise be entitled to the return of his contribution.

15.—(1) A limited partner is liable to the limited partnership for the difference, if any, between the value of money or other property actually contributed by him to the limited partnership and the value of money or other property stated in the declaration as being contributed or to be contributed by him to the limited partnership. Limited partner's liability to partnership

(2) A limited partner holds as trustee for the limited partnership, Limited partner as trustee

- (a) specific property stated in the partnership agreement as contributed by him, but which has not in fact been contributed or which has been returned contrary to this Act; and
- (b) money or other property paid or conveyed to him on account of his contribution contrary to this Act.

(3) Where a limited partner has received the return of all or part of his contribution, he is nevertheless liable to the limited partnership or, where the limited partnership is dissolved, to its creditors for any amount, not in excess of the amount returned with interest, necessary to discharge the liabilities of the limited partnership to all creditors who extended credit or whose claims otherwise arose before the return of the contribution. Idem

16. After the formation of the limited partnership, additional limited partners may be admitted by amendment of the declaration in accordance with section 18. Admission of additional limited partners

17.—(1) A limited partner's interest is assignable. Interest assignable

(2) A substituted limited partner is a person admitted to all the rights and powers of a limited partner who has died or who has assigned his interest in the limited partnership. Limited partner

Rights of
assignee

(3) An assignee who is not a substituted limited partner has no right,

(a) to inspect the limited partnership books;

(b) to be given any information about matters affecting the limited partnership or to be given an account of the partnership affairs,

but is entitled only to receive the share of the profits or other compensation by way of income or the return of the contribution to which the assignor would otherwise be entitled.

Manner of
becoming a
substituted
limited
partner

(4) An assignee may become a substituted limited partner,

(a) if all the partners, except the assignor, consent in writing thereto; or

(b) if the assignor, being so authorized by the partnership agreement, constitutes the assignee a substituted limited partner.

Idem

(5) An assignee, who is otherwise entitled to become a substituted limited partner, becomes a substituted limited partner when the declaration is amended in accordance with section 18.

Rights,
liabilities
of
substituted
limited
partner

(6) A substituted limited partner has all the rights and powers and is subject to all the restrictions and liabilities of his assignor, except any liability of which he did not have notice at the time he became a limited partner and which could not be ascertained from the partnership agreement or the declaration.

Liability
of
assignor

(7) The substitution of an assignee as a limited partner does not release the assignor from liability under section 15 or 27.

Change of
firm name

18.—(1) Where the firm name of a limited partnership is to be changed, a new declaration shall be filed with the Registrar under subsection 2 of section 3.

Declaration
of change

(2) A declaration of change shall be filed with the Registrar for every change in information, other than a change in the firm name, required to be stated in the declaration under subsection 2 of section 3.

Signing
of
declaration

(3) A declaration of change shall be signed by at least one of the general partners.

Idem

(4) A declaration of change for information required by clauses *c* and *d* of subsection 2 of section 3 shall also be signed by the limited partner or substituted limited partner who is the subject of the change.

(5) For the purposes of this Act, a change referred to in subsection 2 does not take effect until a declaration of change is filed with the Registrar. Change not effective

(6) A declaration of change expires upon the expiry, replacement or cancellation of the declaration amended by the declaration of change. Expiry

19.—(1) No limited partnership in respect of which a new declaration or a declaration of change has not been filed as required by section 18 and no member thereof is capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the limited partnership. Failure to file declaration of change

(2) Where a new declaration or declaration of change is filed after an action or proceeding is commenced by the limited partnership or member thereof, the action or proceeding may be continued as if the declaration had been filed in accordance with this Act prior to the institution of the action or proceeding. Continuation of action

20. The retirement, death or mental incompetence of a general partner or dissolution of a corporate general partner dissolves a limited partnership unless the business is continued by the remaining general partners, Dissolution of limited partnership

(a) pursuant to a right to do so contained in the partnership agreement; and

(b) with the consent of all the remaining partners.

21.—(1) The executor or administrator of the estate of a limited partner has, Death of limited partner

(a) all the rights and powers of a limited partner for the purpose of settling the estate of the limited partner; and

(b) whatever power the limited partner had under the partnership agreement to constitute his assignee a substituted limited partner.

(2) The estate of a limited partner is liable for all the liabilities of the limited partner as a limited partner. Liability

22.—(1) A declaration of dissolution shall be filed with the Registrar when, Declaration of dissolution

(a) the limited partnership is dissolved; or

(b) all of the limited partners cease to be limited partners.

Idem

(2) The declaration of dissolution shall be signed by at least one of the general partners.

Declaration
cancelled

(3) When the declaration of dissolution is filed, the declaration filed under subsection 2 of section 3 is cancelled.

Settling
accounts
on
dissolution

23. In settling accounts after the dissolution of a limited partnership, the liabilities of the limited partnership to creditors, except to limited partners on account of their contributions and to general partners, shall be paid first, and then, unless the partnership agreement or a subsequent agreement provides otherwise, shall be paid in the following order:

1. to limited partners in respect of their share of the profits and other compensation by way of income on account of their contributions;
2. to limited partners in respect of their contributions;
3. to general partners other than for capital and profits;
4. to general partners in respect of profits;
5. to general partners in respect of capital.

Declaration

24.—(1) No extra-provincial limited partnership shall carry on business in Ontario unless it has filed a declaration with the Registrar that sets forth the information required by subsection 2 of section 3 and states the jurisdiction in which the extra-provincial limited partnership is organized.

Carry on
business

(2) For the purposes of this section, an extra-provincial limited partnership carries on business in Ontario if,

- (a) it solicits business in Ontario;
- (b) its name is listed in a telephone directory for any part of Ontario;
- (c) its name is included in any advertisement in which an address in Ontario is given for the limited partnership;
- (d) it has a resident agent or representative or a warehouse, office or place of business in Ontario;
- (e) it owns real property situate in Ontario;

(f) it effects a distribution of securities in Ontario by way of a prospectus or offering memorandum in compliance with *The Securities Act, 1978* and the regulations made thereunder; or 1978, c. 47

(g) it otherwise carries on business in Ontario.

(3) The declaration filed under subsection 1 shall be signed by all of the partners. Signing of declaration

(4) When a declaration is filed under subsection 1, the extra-provincial limited partnership shall file with the Registrar a power of attorney in the prescribed form appointing a person resident in Ontario or a corporation having its head or registered office in Ontario to be the attorney and representative in Ontario of the extra-provincial limited partnership. Power of attorney

(5) Where there is a change in the firm name of an extra-provincial limited partnership, a new declaration and power of attorney shall be filed with the Registrar under this section. Change of firm name

(6) Where there is a change in the name or address of the attorney and representative in Ontario of an extra-provincial limited partnership, a new power of attorney shall be filed under this section. Change in name and address of attorney

(7) An extra-provincial limited partnership shall file a declaration of change with the Registrar for every change in the information, other than a change in the firm name, contained in the declaration filed under subsection 1 and the declaration shall be signed in the manner described in section 18. Declaration of change

(8) An extra-provincial limited partnership may cancel the declaration and the power of attorney by filing with the Registrar a declaration of withdrawal signed by at least one of the general partners. Declaration of withdrawal

25.—(1) A limited partner of an extra-provincial limited partnership is not liable in Ontario as a general partner of the extra-provincial limited partnership by reason only that it carries on business in Ontario without filing the declaration and power of attorney required by this Act. Liability of limited partner

(2) The laws of the jurisdiction under which an extra-provincial limited partnership is organized govern its organization and internal affairs and the limited liability of its limited partners. Laws applicable to extra-provincial limited partnerships

26.—(1) No extra-provincial limited partnership in respect of which a declaration or power of attorney has not been filed as required by this Act and no member thereof is capable of main- Failure to file declaration, power of attorney

taining any action or other proceeding in any court in Ontario in respect of any contract or tort made or arising in connection with the business carried on by the extra-provincial limited partnership.

Continuation
of action

(2) When a declaration and power of attorney are filed in accordance with this Act, an action or proceeding referred to in subsection 1 may be continued as if the declaration and power of attorney had been filed in accordance with this Act prior to the institution of the action or proceeding.

Effect of
false
statement
in
declaration

27. Where a declaration contains a false or misleading statement, any person suffering loss as a result of relying upon the statement may hold liable,

- (a) every partner who knew when he signed the declaration that the statement was false or misleading;
- (b) every general partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to file a declaration of change; and
- (c) every limited partner who became aware after he signed the declaration that the statement was false or misleading and failed within a reasonable time to take steps to cause a declaration of change to be filed.

Liability of
person
mistakenly
believing
he is a
limited
partner

28. A person who contributes to the capital of a business carried on by a person or partnership erroneously believing that he has become a limited partner in a limited partnership,

- (a) is not, by reason only of his exercising the rights of a limited partner, a general partner with the person or in the partnership carrying on the business; and
- (b) is not bound by the obligations of the person or partnership carrying on the business,

if, upon ascertaining the fact that he is not a limited partner, he promptly,

- (c) renounces his interest in the profits or other compensation by way of income from the business; or
- (d) takes steps to cause a declaration to be filed with the Registrar showing the person to be a limited partner.

29.—(1) A general or limited partner may give written authority to any other person to sign on his behalf any document referred to in this Act. Authority to sign

(2) A person who signs a document to be filed with the Registrar under an authority referred to in subsection 1 shall indicate in the document that he signs on behalf of a general or limited partner. Idem

30.—(1) Every partnership shall keep at its principal place of business in Ontario, Access to documents

(a) a copy of the partnership agreement;

(b) a copy of the declaration and a copy of each declaration of change amending the declaration;

(c) a copy of any court order made under section 31;

(d) a copy of any written authority given under subsection 1 of section 29; and

(e) in the case of an extra-provincial limited partnership, a copy of the power of attorney filed with the Registrar.

(2) Where an extra-provincial limited partnership does not have a principal place of business in Ontario, the documents referred to in subsection 1 shall be kept by the attorney and representative in Ontario of the extra-provincial limited partnership at the address stated in the power of attorney filed under subsection 4 of section 24. Where no principal place of business

(3) Any partner may inspect any of the documents referred to in subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Right to inspect

(4) Any person who has a business relationship with the partnership may inspect any of the documents referred to in clauses *b*, *c*, *d* and *e* of subsection 1 during the normal business hours of the partnership or the partnership's attorney and representative. Idem

31.—(1) In this section, "Court" means the Supreme Court of Ontario. Interpretation

(2) Where a person who is required by this Act to sign or permit inspection of a document refuses to do so, a person who is aggrieved by the refusal may apply to the Court for an order directing the person to comply with the provisions of this Act and upon such application, the Court may make such order or any Order for compliance

other order that the Court considers appropriate in the circumstances.

Application

(3) An application may be made under subsection 2 notwithstanding the imposition of a penalty in respect of the refusal and in addition to any other rights the applicant may have at law,

Offences

32.—(1) Every person who,

(a) contravenes any provision of this Act or the regulations; or

(b) makes a statement in any document, material, evidence or information submitted or required by or for the purposes of this Act that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact or that omits to state any material fact, the omission of which makes the statement false or misleading,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or, if such person is a corporation, to a fine of not more than \$20,000.

False
statements
wilful

(2) No person is guilty of an offence referred to in clause *b* of subsection 1 if he did not know that the statement was false or misleading and in the exercise of reasonable diligence could not have known that the statement was false or misleading.

Liability of
directors
and
officers

(3) Where a corporation is guilty of an offence under subsection 1, every director or officer of such corporation, and where the corporation is an extra-provincial corporation, every person acting as its representative in Ontario, who authorized, permitted or acquiesced in such an offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Regulations

33. The Lieutenant Governor in Council may make regulations,

(a) prescribing fees for the purposes of this Act;

(b) respecting additional information to be included in a declaration filed under this Act;

(c) prescribing forms and providing for their use.

Transition

R.S.O. 1970,
c. 247

34.—(1) A limited partnership in existence on the day before the day this Act comes into force is continued under this Act and a certificate filed by such a limited partnership under *The Limited*

Partnerships Act shall be deemed to be a declaration filed under subsection 2 of section 3 of this Act, but such declaration expires on the date shown on the certificate.

(2) Notwithstanding section 24, an extra-provincial limited partnership may carry on business in Ontario without filing a declaration and power of attorney for sixty days after the day this Act comes into force. Idem

35. *The Limited Partnerships Act*, being chapter 247 of the Revised Statutes of Ontario, 1970 and *The Limited Partnerships Amendment Act, 1973*, being chapter 26, are repealed. Repeals

36. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

37. The short title of this Act is *The Limited Partnerships Act*, Short title
1980.

An Act to revise
The Limited Partnerships Act

1st Reading

May 27th, 1980

2nd Reading

October 7th, 1980

3rd Reading

October 14th, 1980

THE HON. FRANK DREA
Minister of Consumer and Commercial
Relations

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to amend
The Provincial Offences Act, 1979**

MR. WARNER

EXPLANATORY NOTE

The purpose of the Bill is to declare that every person who is arrested on the grounds of having committed a provincial offence is entitled to retain and instruct counsel without delay.

BILL 86

1980

**An Act to amend
The Provincial Offences Act, 1979**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** *The Provincial Offences Act, 1979*, being chapter 4, is amended by adding thereto the following section: s. 132a,
enacted

132a.—(1) It is the right of every person who is arrested, whether with or without a warrant, to be permitted to retain and instruct counsel without delay. Right to
retain
counsel

(2) It is the duty of every one who arrests a person, whether with or without a warrant, to refrain from interrogating the person about any matter related to the reason for the arrest until the person has had a reasonable opportunity to retain and instruct counsel. Inter-
rogation

- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is *The Provincial Offences Amendment Act, 1980*. Short title

An Act to amend
The Provincial Offences Act, 1979

1st Reading

May 29th, 1980

2nd Reading

3rd Reading

MR. WARNER

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Law Society Act

MR. SAMIS

EXPLANATORY NOTE

The purpose of the Bill is to permit lawyers in Ontario to advertise their services to members of the public.

BILL 87

1980

An Act to amend The Law Society Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** *The Law Society Act*, being chapter 238 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 56,
enacted

56.—(1) Every member is entitled to advertise the office hours, languages spoken, educational qualifications, professional affiliations, preferred areas of practice, the fees charged for initial consultations and the fees charged for services, references, publications and, where the clients give consent, representative clients of the member. Member's
right to
advertise

(2) A member may advertise only by publication in a newspaper, magazine or other form of print media. Advertising
by
publication

(3) A member who advertises his services in a manner that is misleading or deceptive is guilty of professional misconduct. Misleading
advertising

- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is *The Law Society Amendment Act, 1980*. Short title

An Act to amend
The Law Society Act

1st Reading

May 29th, 1980

2nd Reading

3rd Reading

MR. SAMIS

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Legislative Assembly Act**

MR. SWART

EXPLANATORY NOTE

The purpose of this Bill is to declare that the designations "Member of the Legislative Assembly" and "M.L.A." are the official designations of persons who are elected to the Legislative Assembly. The Bill provides that only members of the Legislative Assembly are entitled to use either of the official designations in association with themselves while sitting as elected members of the Assembly and during the succeeding election period.

BILL 88

1980

An Act to amend The Legislative Assembly Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Legislative Assembly Act*, being chapter 240 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 15a,
enacted

15a.—(1) The designations “Member of the Legislative Assembly” and “M.L.A.” shall be the official designations of a person who is elected to the Assembly and no person shall use either of the official designations in association with himself or otherwise purport to be a member of the Assembly unless that person is an elected member of the Assembly. Official
designation
of members

(2) Nothing in subsection 1 prohibits a person who is a member of the Assembly from using the official designation “Member of the Legislative Assembly” or “M.L.A.” during the election period immediately following the dissolution of the Legislature to which the person was elected but that person is not entitled to use either of the official designations after the polling day in the election unless the person has been elected to the succeeding Legislature. Idem

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Legislative Assembly Amendment Act, 1980*. Short title

An Act to amend
The Legislative Assembly Act

1st Reading

June 2nd, 1980

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

**THE HON. R. ELGIE
Minister of Labour**

EXPLANATORY NOTES

SECTION 1. Under the proposed section 34e of the Act, an employer will have the right to require, either before or after the commencement of a strike or lock-out, that a vote be held on the employer's last offer.

SECTION 2. Section 36a (1) now reads as follows:

- (1) *Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.*

Under the proposed re-enactment of section 36a (1), a trade union that has been certified as the bargaining agent for employees in a bargaining unit will have the right to require that a collective agreement contain a provision requiring the deduction of union dues from the wages of each employee in the bargaining unit whether or not the employee is a member of the trade union. Section 36a (1), as re-enacted, will not apply to the construction industry or to an employee who objects on religious grounds to the paying of union dues.

BILL 89

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

34e.—(1) Before or after the commencement of a strike or lock-out, the employer of the employees in the affected bargaining unit may request that a vote of such employees be taken as to the acceptance or rejection of the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties and the Minister shall on such terms as he considers necessary direct that a vote of such employees to accept or reject the offer be held and thereafter no further such request shall be made.

s. 34e,
enacted

Vote on
employer's
offer

(2) Subsection 1 does not affect the application or operation of any provision of this Act.

Proviso

- 2.—(1) Subsection 1 of section 36a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor:

s. 36a (1),
re-enacted

(1) Except in the construction industry and subject to section 39, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith.

Deduction
and
remittance
of union
dues

- (2) Subsection 1 of section 36a of *The Labour Relations Act*, as re-enacted by subsection 1 of this section, does not apply to a collective agreement in operation on the day this section comes

Application

into force but applies to every collective agreement that is renewed or made after that date.

s. 63,
amended

- 3.** Section 63 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 17, is further amended by adding thereto the following subsection:

Right
to vote

(4a) All employees in a bargaining unit, whether or not such employees are members of the trade union or of any constituent union of a council of trade unions, shall be entitled to participate in a strike vote or a vote to ratify a proposed collective agreement.

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Labour Relations Amendment Act, 1980*.

SECTION 3. Self-explanatory.

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An Act to amend
The Labour Relations Act

1st Reading

June 3rd, 1980

2nd Reading

3rd Reading

THE HON. R. ELGIE
Minister of Labour

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Labour Relations Act

THE HON. R. ELGIE
Minister of Labour

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Under the proposed section 34e of the Act, an employer will have the right to request, either before or after the commencement of a strike or lock-out, that a vote be held on the employer's last offer.

SECTION 2. Section 36a (1) now reads as follows:

- (1) *Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.*

Under the proposed re-enactment of section 36a (1), a trade union that has been certified as the bargaining agent for employees in a bargaining unit will have the right to require that a collective agreement contain a provision requiring the deduction of union dues from the wages of each employee in the bargaining unit whether or not the employee is a member of the trade union. Section 36a (1), as re-enacted, will not apply to the construction industry or to an employee who objects on religious grounds to the paying of union dues.

BILL 89

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

s. 34e,
enacted

34e.—(1) Before or after the commencement of a strike or lock-out, the employer of the employees in the affected bargaining unit may request that a vote of such employees be taken as to the acceptance or rejection of the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties and the Minister shall, and in the construction industry the Minister may, on such terms as he considers necessary direct that a vote of such employees to accept or reject the offer be held and thereafter no further such request shall be made.

Vote on
employer's
offer

(2) A request for the taking of a vote, or the holding of a vote, under subsection 1 does not abridge or extend any time limits or periods provided for in this Act.

Time limits
and periods
not affected

- 2.—(1) Subsection 1 of section 36a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor:

s. 36a (1),
re-enacted

(1) Except in the construction industry and subject to section 39, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith.

Deduction
and
remittance
of union
dues

- (2) Subsection 1 of section 36a of *The Labour Relations Act*, as re-enacted by subsection 1 of this section, does not apply to a collective agreement in operation on the day this section comes

Application

into force but applies to every collective agreement that is renewed or made after that date.

s. 63,
amended

- 3.** Section 63 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 17, is further amended by adding thereto the following subsection:

Right
to vote

(4a) All employees in a bargaining unit, whether or not such employees are members of the trade union or of any constituent union of a council of trade unions, shall be entitled to participate in a strike vote or a vote to ratify a proposed collective agreement.

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Labour Relations Amendment Act, 1980*.

SECTION 3. Self-explanatory.



An Act to amend
The Labour Relations Act

1st Reading

June 3rd, 1980

2nd Reading

June 10th, 1980

3rd Reading

THE HON. R. ELGIE
Minister of Labour

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 89

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

**THE HON. R. ELGIE
Minister of Labour**

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 89

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 34e,
enacted

34e.—(1) Before or after the commencement of a strike or lock-out, the employer of the employees in the affected bargaining unit may request that a vote of such employees be taken as to the acceptance or rejection of the offer of the employer last received by the trade union in respect of all matters remaining in dispute between the parties and the Minister shall, and in the construction industry the Minister may, on such terms as he considers necessary direct that a vote of such employees to accept or reject the offer be held and thereafter no further such request shall be made. Vote on
employer's
offer

(2) A request for the taking of a vote, or the holding of a vote, under subsection 1 does not abridge or extend any time limits or periods provided for in this Act. Time limits
and periods
not affected

- 2.—(1) Subsection 1 of section 36a of the said Act, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor: s. 36a (1),
re-enacted

(1) Except in the construction industry and subject to section 39, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith. Deduction
and
remittance
of union
dues

- (2) Subsection 1 of section 36a of *The Labour Relations Act*, as re-enacted by subsection 1 of this section, does not apply to a collective agreement in operation on the day this section comes Application

into force but applies to every collective agreement that is renewed or made after that date.

s. 63,
amended

- 3.** Section 63 of the said Act, as amended by the Statutes of Ontario, 1975, chapter 76, section 17, is further amended by adding thereto the following subsection:

Right
to vote

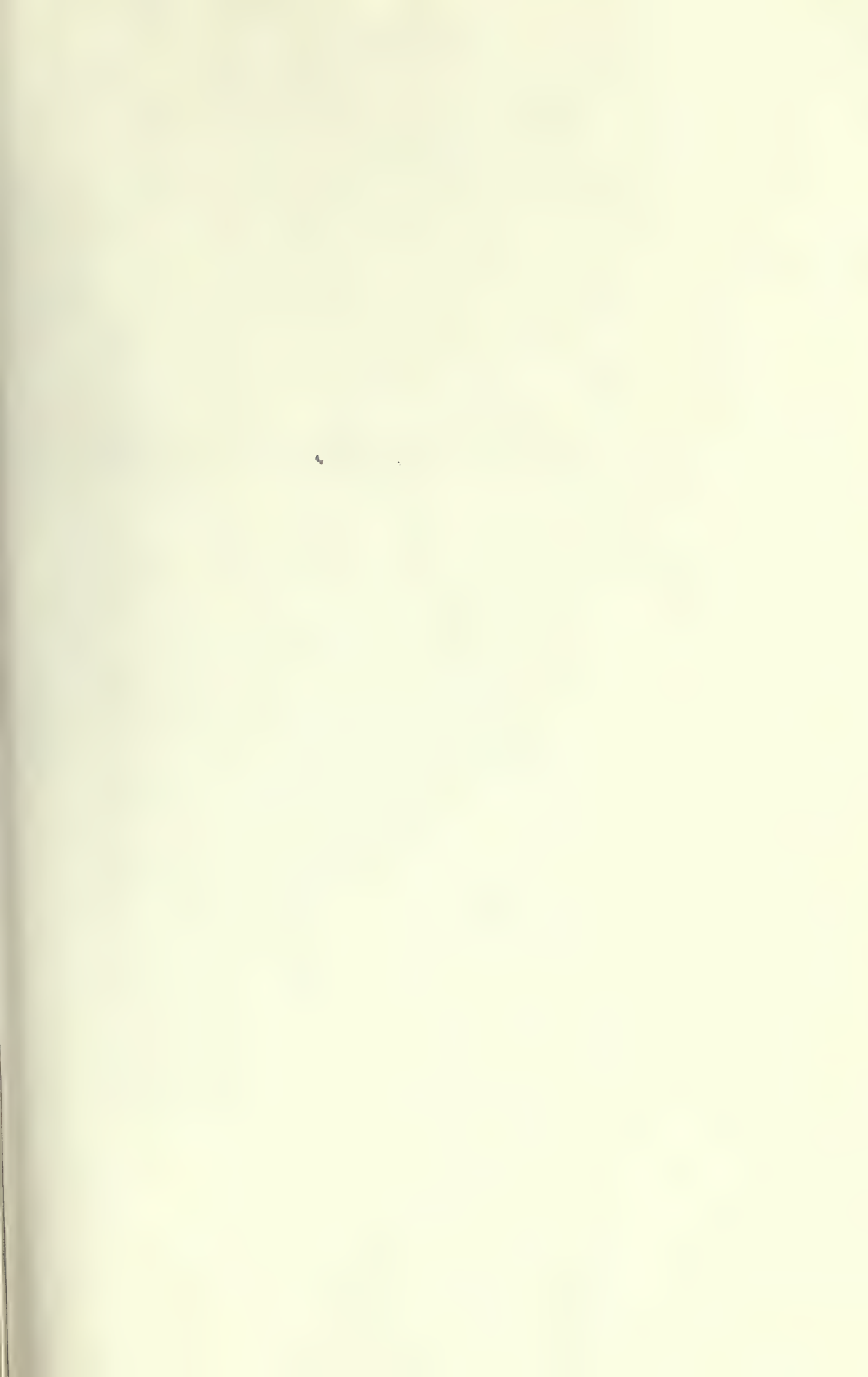
(4a) All employees in a bargaining unit, whether or not such employees are members of the trade union or of any constituent union of a council of trade unions, shall be entitled to participate in a strike vote or a vote to ratify a proposed collective agreement.

Commence-
ment

- 4.** This Act comes into force on the day it receives Royal Assent.

Short title

- 5.** The short title of this Act is *The Labour Relations Amendment Act, 1980*.



An Act to amend
The Labour Relations Act

1st Reading

June 3rd, 1980

2nd Reading

June 10th, 1980

3rd Reading

June 12th, 1980

THE HON. R. ELGIE
Minister of Labour

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to control Professional Fund-raising Corporations

**MR. NEWMAN
(Windsor-Walkerville)**

EXPLANATORY NOTE

This Bill provides for the licensing of companies and bonding of personnel and would require the company to file a financial statement with the Minister after each fund-raising event and would limit by regulation the amount which could be charged over and above direct expenses.

It is not the intention to interfere with local Red Feather, United Appeal or similar drives where much of the organization work is of a voluntary nature and expenses incurred are a very small proportion of the total proceeds.

BILL 90

1980

An Act to control Professional Fund-raising Corporations

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Commissioner" means the Commissioner of professional fund-raising corporations;
- (b) "Director" means the Director of the Consumer Protection Division of the Ministry;
- (c) "Minister" means the Minister of Consumer and Commercial Relations;
- (d) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (e) "professional fund-raising corporation" means a corporation that has as its objects, the raising of money for non-profit organizations in return for remuneration of any kind and includes a sole proprietorship or partnership which raises money for non-profit organizations in return for remuneration of any kind;
- (f) "regulations" means the regulations made under this Act;
- (g) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Department of Financial and Commercial Affairs Act*.

R.S.O. 1970,
c. 113

COMMISSIONER

2.—(1) There shall be a Commissioner of professional fund-raising corporations who shall be appointed by the Lieutenant Governor in Council.

Commis-
sioner

Powers and
duties of
Commissioner

(2) The Commissioner may exercise the powers and shall discharge the duties conferred and imposed upon him by this Act and the regulations under the supervision of the Director.

LICENSING

Licensing

3.—(1) No person shall engage in business as a professional fund-raising corporation unless he is licensed as a professional fund-raising corporation.

Change in
partnership

(2) Where a partnership is licensed under subsection 1, any change in the membership of the partnership shall be deemed to create a new partnership for the purpose of licensing.

Licensing,
exception

4.—(1) An applicant is entitled to a licence or renewal of a licence by the Commissioner except where,

(a) having regard to his financial position, the applicant cannot reasonably be expected to be financially responsible in the conduct of his business; or

(b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with law and with integrity and honesty; or

(c) the applicant is a corporation and,

(i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or

(ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with law and with integrity and honesty; or

(d) the applicant is carrying on activities that are, or will be, if the applicant is licensed, in contravention of this Act or the regulations.

Conditions of
a licence

(2) A licence is subject to such terms and conditions to give effect to the purposes of this Act as are consented to by the applicant, imposed by the Tribunal or prescribed by the regulations.

Refusal to
grant a
licence

5.—(1) Subject to section 9, the Commissioner may refuse to grant a licence to an applicant where in the Commissioner's opinion the applicant is disentitled to a licence under section 4.

(2) Subject to section 6, the Commissioner may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under section 4 if he were an applicant or where the licensee is in breach of a term or condition of the licence. Revocation

6.—(1) Where the Commissioner proposes to refuse to grant or renew a licence or proposes to suspend or revoke a licence, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licensee. Notice of proposal to refuse or revoke

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under section 1 is served on him, notice in writing requiring a hearing to the Commissioner and the Tribunal, and he may so require such a hearing. Notice requiring hearing

(3) Where an applicant or licensee does not require a hearing by the Tribunal in accordance with subsection 2, the Commissioner may carry out the proposal stated in his notice under subsection 1. Powers of Commissioner where no hearing

(4) Where an applicant or licensee requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Commissioner at the hearing, may by order direct the Commissioner to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Commissioner ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Commissioner. Powers of Tribunal where hearing

(5) The Tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act. Conditions of order

(6) The Commissioner, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

(7) Notwithstanding subsection 1, the Commissioner may cancel a licence upon the request in writing of the licensee in the prescribed form surrendering his licence. Voluntary cancellation

(8) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue, Continuation of licence pending renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Commissioner proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, where a hearing is required, until the Tribunal has made its order.

Orders of
Tribunal
effective, stay
R.S.O. 1970,
c. 113

(9) Notwithstanding that a licensee appeals from an order of the Tribunal under section 9b of *The Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately, but the Tribunal may grant a stay until disposition of the appeal.

Further
applications

7. A further application for a licence may be made upon new or other evidence or where it is clear that material circumstances have changed.

Investiga-
tion of
complaints

8.—(1) Where the Commissioner receives a complaint in respect of a professional fund-raising corporation and so requests in writing, the professional fund-raising corporation shall furnish the Commissioner with such information respecting the matter complained of as the Commissioner requires.

Idem

(2) The request under subsection 1 shall indicate the nature of the inquiry involved.

Idem

(3) For the purposes of subsection 1, the Commissioner or any person designated in writing by him may at any reasonable time enter upon the business premises of the licensee to make an inspection in relation to the complaint.

Inspection

9.—(1) The Commissioner or any person designated by him in writing may at any reasonable time enter upon the business premises of the licensee to make an inspection to ensure that the provisions of this Act and the regulations relating to a licence are being complied with.

Idem

(2) Where the Commissioner has reasonable and probable grounds to believe that any person is acting as a professional fund-raising corporation while not licensed, the Commissioner or any person designated by him in writing may at any reasonable time enter upon such person's business premises to make an inspection for the purpose of determining whether or not the person is in contravention of section 3.

Powers on
inspection

10.—(1) Upon an inspection under section 8 or 9, the person inspecting,

(a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, cor-

respondence and records of the person being inspected that are relevant for the purposes of the inspection; and

- (b) may, upon giving a receipt therefor, remove any material referred to in clause *a* that relates to the purpose of the inspection for the purpose of making a copy thereof, provided that such copying is carried out with reasonable dispatch and the material in question is promptly thereafter returned to the person being inspected,

and no person shall obstruct the person inspecting or withhold or destroy, conceal or refuse to furnish any information or thing required by the person inspecting for the purposes of the inspection.

(2) Any copy made as provided in subsection 1 and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. Admissibility of copies

11. The Minister may by order appoint a person to make an investigation into any matter to which this Act applies as may be specified in the Minister's order and the person appointed shall report the result of his investigation to the Minister and, for the purposes of the investigation, the person making it has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such investigation as if it were an inquiry under that Act. Investigations by order of Minister
1971, c. 49

12.—(1) Where, upon a statement made under oath, the Director believes on reasonable and probable grounds that any person has, Investigation by Director

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence under the *Criminal Code* (Canada) or under the law of any jurisdiction that is relevant to his fitness for licensing under this Act, R.S.C. 1970, c. C-34

the Director may by order appoint one or more persons to make an investigation to ascertain whether such a contravention of the Act or regulation or the commission of such an offence has occurred, and the person appointed shall report the result of his investigation to the Director.

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to Powers of investigator

make the investigation may inquire into and examine the affairs of the person in respect of whom the investigation is being made and may,

- (a) upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, papers, documents and things relevant to the subject-matter of the investigation; and
- (b) inquire into negotiations, transactions, loans, borrowings made by or on behalf of or in relation to such person and into property, assets or things owned, acquired or alienated in whole or in part by him or any person acting on his behalf that are relevant to the subject-matter of the investigation,

and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under clause *a* of subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, papers, documents or things examined under clause *a* of subsection 2 or subsection 4 relating to the person whose

affairs are being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, papers or documents, but such copying shall be carried out with reasonable dispatch and the books, papers or documents in question shall be promptly thereafter returned to the person whose affairs are being investigated.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Admissibility of copies

(7) The Minister or Director may appoint any expert to examine books, papers, documents or things examined under clause *a* of subsection 2 or under subsection 4.

Appointment of experts

13.—(1) Every person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under section 8, 9, 10, 11 or 12, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except,

Matters confidential

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry, inspection or investigation except in a proceeding under this Act or the regulations.

Testimony in civil suit

14. Where, upon the report of an investigation made under subsection 1 of section 13, it appears to the Director that a person may have,

Report

- (a) contravened any of the provisions of this Act or the regulations; or
- (b) committed an offence, under the *Criminal Code* (Canada) or under the law of any jurisdiction, that is relevant to his fitness for licensing under this Act,

R.S.C. 1970, c. C-34

the Director shall send a full and complete report of the investigation, including the report made to him, any transcript or evidence and any material in the possession of the Director relating thereto, to the Minister.

Order to
refrain from
dealing with
assets

15.—(1) Where,

- (a) an investigation of any person has been ordered under section 13; or
- (b) criminal proceedings or proceedings in relation to a contravention of any Act or regulation are about to be or have been instituted against a person that are connected with or arise out of the business in respect of which such person is registered,

the Director, if he believes it advisable for the protection of clients or customers of the person referred to in clause *a* or *b*, may, in writing or by telegram, direct any person having on deposit or under control or for safekeeping any assets or trust funds of the person referred to in clause *a* or *b* to hold such assets or trust funds or direct the person referred to in clause *a* or *b* to refrain from withdrawing any such assets or trust funds from any person having any of them on deposit or under control or for safekeeping or to hold such assets or any trust funds of clients, customers or others in his possession or control in trust for any interim receiver, custodian, trustee, receiver or liquidator appointed under the *Bankruptcy Act* (Canada), *The Judicature Act*, *The Corporations Act*, *The Business Corporations Act* or the *Winding-up Act* (Canada), or until the Director revokes or the Tribunal cancels such direction or consents to the release of any particular assets or trust funds from the direction but, in the case of a bank, loan or trust company, the direction only applies to the office, branches or agencies thereof named in the direction.

R.S.O. 1970,
cc. 228, 89, 53
R.S.C. 1970,
cc. B-4, W-11

Bond in
lieu

(2) Subsection 1 does not apply where the person referred to in clause *a* or *b* of subsection 1 files with the Director,

- (a) a personal bond accompanied by collateral security;
- (b) a bond of a guarantee company approved under *The Guarantee Companies Securities Act*; or
- (c) a bond of a guarantor, other than a guarantee company, accompanied by collateral security,

R.S.O. 1970,
c. 196

in such form, terms and amount as the Director determines.

(3) Any person in receipt of a direction given under subsection 1, if in doubt as to the application of the direction to any assets or trust funds, or in case of a claim being made thereto by a person not named in the direction, may apply to a judge or local judge of the Supreme Court who may direct the disposition of such assets or trust funds and may make such order as to costs as seems just.

Application
for
direction

REGULATION OF PROFESSIONAL FUND-RAISING CORPORATIONS

16.—(1) Every professional fund-raising corporation shall keep a record sheet in the prescribed form and proper books and accounts with respect to his business as a professional fund-raising corporation.

Books, etc.,
to be kept

(2) In addition to those records prescribed under subsection 1, every professional fund-raising corporation shall file with the Minister for each fund-raising event undertaken by the corporation a financial statement in the prescribed form showing the amount collected, the expenses of the campaign and the amount turned over to the non-profit organization for which the campaign was conducted.

Idem

17.—(1) Every professional fund-raising corporation shall maintain an account designated as a trust account in a chartered bank, loan or trust company or Province of Ontario Savings Office in which shall be deposited all moneys that come into its hands in trust for other persons in connection with its business, and it shall at all times keep such moneys separate and apart from moneys belonging to itself or to the partnership, in the case of a partnership, and shall disburse such moneys only in accordance with the terms of the trust.

Bank
account

(2) Where a professional fund-raising corporation holds moneys in trust for a period of one year after the person for whom it is held first became entitled to payment of the moneys and such person cannot be located, the professional fund-raising corporation shall pay the moneys to the Treasurer of Ontario who shall pay the moneys to the person appearing to the Treasurer to be entitled thereto.

Unclaimed
trust
moneys

18. Every professional fund-raising corporation shall be bonded in the form and manner as is prescribed in the regulations.

Bonding

19. No professional fund-raising corporation shall charge an amount towards overhead in relation to direct expenses greater than that amount prescribed in the regulations.

Overhead

Service

20.—(1) Any notice or order required to be given or served under this Act or the regulations is sufficiently given or served if delivered personally or sent by registered mail addressed to the person to whom delivery or service is required to be made at the latest address for service appearing on the records of the Ministry.

Where service deemed to be made

(2) Where service is made by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or order until a later date.

Exception

(3) Notwithstanding subsections 1 and 2, the Tribunal may order any other method of service in respect of any matter before the Tribunal.

Restraining orders

21.—(1) Where it appears to the Director that any person does not comply with any provision of this Act, the regulations or an order made under this Act, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights he may have, the Director may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Offences

22.—(1) Every person who, knowingly,

- (a) furnishes false information in any application under this Act or in any statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with any order, direction or other requirement made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporations

(3) No proceedings under this section shall be instituted except with the consent of the Minister. Consent of Minister

(4) No proceeding under clause *a* of subsection 1 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Director. Limitation

(5) No proceeding under clause *b* or *c* of subsection 1 shall be commenced more than two years after the time when the subject-matter of the proceeding arose. Idem

23. The Lieutenant Governor in Council may make regulations, Regulations

- (a) requiring and governing the books, accounts and records that shall be kept by licensed professional fund-raising corporations;
- (b) prescribing the form of financial statements to be filed under subsection 2 of section 16;
- (c) governing applications for a licence or renewal of a licence and prescribing terms and conditions of licences;
- (d) prescribing the fees payable upon applications for licences and renewal of licences and any other fees in connection with the administration of this Act and the regulations;
- (e) prescribing the practice and procedure upon investigations under sections 8 and 10;
- (f) prescribing forms and providing for their use;
- (g) prescribing further procedures respecting the conduct of matters coming before the Tribunal;
- (h) prescribing the form and manner in which a professional fund-raising corporation shall be bonded;
- (i) prescribing the amount which may be charged towards overhead in relation to direct expenses.

Commence-
ment

24. This Act comes into force on the day it receives Royal Assent.

Short title

25. The short title of this Act is *The Professional Fund-raising Corporations Control Act, 1980*.

An Act to control
Professional Fund-raising Corporations

1st Reading

June 3rd, 1980

2nd Reading

3rd Reading

MR. NEWMAN
(Windsor-Walkerville)

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to establish
an Environmental Magna Carta for Ontario**

MS. BRYDEN

EXPLANATORY NOTE

The purpose of the Bill is to provide an environmental magna carta for Ontario. The Bill permits an action to be brought in Ontario courts to recover damages for the degradation and contamination of the environment. The Bill sets out other rights relating to access to courts and tribunals, freedom of information and public participation in environmental regulation. The Bill further provides for a study into methods for providing funds to persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

BILL 91

1980

An Act to establish an Environmental Magna Carta for Ontario

WHEREAS every person has a right to clean air, pure water Preamble
and a healthy environment; and whereas it is the duty of the
State to ensure that these rights are protected and that the natural,
scenic and aesthetic values of the environment are preserved; and
whereas there is a public trust to protect the environment and all
the living species that inhabit it for the benefit of present and
future generations;

Therefore, Her Majesty, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario, enacts as
follows:

PART I

INTERPRETATION AND PURPOSE

1. In this Act,

Interpre-
tation

- (a) "Board" means the Environmental Assessment Board
established under *The Environmental Assessment Act*, 1975, c. 69
1975;
- (b) "contaminant" means any solid, liquid, gas, odour,
heat, sound, vibration, radiation or combination of any
of them resulting directly or indirectly from the activities
of man which may,
 - (i) impair the quality of the environment or the pub-
lic trust therein for any use that can be made of it,
 - (ii) cause injury or damage to property or to plant or
animal life,
 - (iii) cause harm or material discomfort to any person,

(iv) adversely affect the health or impair the safety of any person, or

(v) render any property or plant or animal life unfit for use by man,

and "contamination" has a corresponding meaning;

(c) "degradation" refers to any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and "degrade" has a corresponding meaning;

(d) "environment" means,

(i) air, land or water,

(ii) plant and animal life, including man,

(iii) the social, economic and cultural conditions that influence the life of man or a community,

(iv) any building, structure, machine or other device or thing made by man,

(v) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of man, or

(vi) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

(e) "instrument" means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule;

(f) "Minister" means the Minister of the Environment;

(g) "public trust" means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

(h) "regulation" means a regulation made under an Act listed in the Schedule to this Act.

2.—(1) Every person in Ontario has a right to the protection of his environment from contamination and degradation regardless of his proprietary or pecuniary interest in it. Substantive right

(2) Ontario's public lands, waters and natural resources are the common property of all the people, including generations yet to come, and as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations. Idem

PART II

ACCESS TO COURTS AND TRIBUNALS

3.—(1) Where an activity has contaminated or degraded or is contaminating or degrading the environment, any person may commence an action in a court in Ontario for damages against any person who is responsible for the activity. Cause of action

(2) No person shall be prohibited from commencing an action under subsection 1 by reason only that the person is not able to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings. Standing

(3) It is not a defence to an action under this section that the defendant complied with a standard or an instrument set or issued under an Act listed in the Schedule or that the defendant is subject to a program approval or control order or other instrument. Defences

4. In proceedings under this Act, the onus is upon the defendant to prove that the activity that constitutes the subject-matter of the proceedings does not contaminate or degrade the environment. Onus of proof

5. Where it is established in an action commenced under this Act, that the activity of the defendant has contaminated or degraded or is contaminating or degrading the environment, a court may grant an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the court may consider necessary. Remedies

6. Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party or intervenor to the proceeding, appeal or review Parties, etc.

as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class
actions

7.—(1) In an action under this Act, a court may, by order, permit one or more persons to act as representatives of a class of persons where, in the opinion of the court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

Judgment

(2) The court may provide in the judgment of a class action for subsequent determination of the amount and distribution of damages assessed against the defendant.

PART III

FREEDOM OF INFORMATION

Right to
information

8.—(1) Every person has the right to obtain from any minister any information available in the minister's ministry concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.

Right to
examine

(2) A minister referred to in subsection 1 shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

Idem

(3) A minister shall permit any person who applies therefor to examine any report concerning any test, observation, inspection or analysis relating to the environment carried out by or under his

authority, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

(4) Notwithstanding subsections 2 and 3, a minister may refuse an application under this section where, in the opinion of the minister, the release of the information, Where disclosure may be refused

(a) would be detrimental to the security of Ontario or Canada;

(b) would reveal trade secrets or prejudice commercial competition;

(c) would constitute an unwarranted invasion of personal privacy;

(d) would prejudice an investigation or inquiry in the administration of justice;

(e) would prejudice contractual negotiations;

(f) would result in serious financial loss to a person or association.

(5) Where a minister refuses an application under this section, the minister shall cause a notice of the refusal to be sent to the person who made the application and the notice shall set out the reasons for the refusal. Notice of refusal

(6) Where the Minister refuses to permit the release of information under subsection 4, the person who made the application may apply to a judge of the High Court, within fifteen days after receiving the notice of refusal, for an order determining whether or not the information should be disclosed and, upon completion of a hearing of the matter, the judge may make such order as the judge considers appropriate in the circumstances. Appeal

(7) The Minister, in an appeal under subsection 6, may file a statement of particulars in a sealed envelope with the judge in support of the Minister's refusal. Sealed statement of particulars

(8) At any stage in the proceedings, the judge may order that the statement of particulars be resealed or disclosed in whole or in part to the other party or otherwise dealt with as the judge thinks fit. Idem

(9) In an appeal under subsection 6, the onus of establishing that access to the information should be refused is on the minister concerned. Onus

Release of
documents by
Lieutenant
Governor in
Council

(10) Notwithstanding subsection 4, the Lieutenant Governor in Council may order the release of a public document that is exempt where the release of the document is in the public interest.

PART IV

PUBLIC PARTICIPATION

Interpre-
tation

9.—(1) In this section,

- (a) “appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;
- (b) “proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

Notice of
proposed
instrument

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in one newspaper having general circulation throughout the community or communities affected by the proposed instrument.

Submissions

(3) Any person may, within sixty days of the giving of notice or within such longer time as may be stated in the notice, make written submissions to the proper authority with respect to the proposed provisions of the instrument and may, by written notice to the proper authority, request a hearing by the appropriate board with respect to the proposed provisions of the instrument.

Hearing

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board and the appropriate board shall hold a hearing concerning the matter unless, in the opinion of the authority, the request is not made in good faith or is frivolous.

Issuance of
proposed
instrument

(5) Where no person requests a hearing under subsection 3, with respect to the proposed provisions of the instrument, the proper authority may issue the proposed instrument but the proposed instrument shall not be issued before ten days after the final date for filing a notice requesting a hearing have elapsed.

Idem

(6) Upon completion of a hearing under subsection 4, the appropriate board shall make a report concerning the matter to the proper authority and the proper authority, after taking into

consideration the recommendations of the appropriate board, may issue the proposed instrument in the original or an amended form.

(7) Any person may make an application to the Board requesting the Board to review any existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked. Review of instrument

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection 7 unless the Board is of the opinion that the application is not made in good faith or is frivolous. Preliminary hearing

(9) Where the Board decides not to hold a preliminary hearing under subsection 8, or where the Board decides that a *prima facie* case has not been made under subsection 7, the Board shall give notice of its decision to the person making the application, together with written reasons therefor, and an appeal of the Board's decision lies to a judge of the Supreme Court of Ontario. Notice

(10) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued. Emergencies

PART V

PUBLIC INTEREST ACTIVITIES

10.—(1) To ensure that points of view representative of significant bodies of opinion are adequately presented, the Board shall undertake a study of methods for providing funds to persons and public interest groups who engage in proceedings for the purpose of protecting and conserving the environment including proceedings authorized under this Act and the study shall include recommendations concerning criteria for the allocation of funds amongst eligible persons and groups and recommendations of rules governing the reporting of expenditures by these persons or groups. Study of public funding for intervenors

(2) The Board shall report to the Minister within one year of the day on which this Act comes into force concerning the study Report

referred to in subsection 1 and the Minister shall lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Costs

11. Where a person or public interest group raises a matter of importance relating to the protection and conservation of the environment, a judge shall not award costs against the person or group notwithstanding that the person or group is not successful in the proceeding.

No discipline,
dismissal,
etc.,
by employer

12.—(1) No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty
for
offence

(2) Where an employer is convicted of an offence under subsection 1, the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection 1 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

PART VI

MISCELLANEOUS

Common law
remedies
preserved

13. Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

Conflict

1971, c. 86

14. Where a conflict appears between any provision of this Act and a provision in any other Act, including *The Environmental Protection Act, 1971*, the provision of this Act shall prevail.

15. This Act binds the Crown.

Crown

16. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

17. The short title of this Act is *The Environmental Magna Carta Act, 1980*.

Short title

SCHEDULE

The Conservation Authorities Act

The Drainage Act, 1975

The Environmental Assessment Act, 1975

The Environmental Protection Act, 1971

The Mining Act

The Niagara Escarpment Planning and Development Act, 1973

The Ontario Water Resources Act

The Pesticides Act, 1973

The Pits and Quarries Control Act, 1971

The Planning Act

An Act to establish
an Environmental Magna Carta
for Ontario

1st Reading

June 3rd, 1980

2nd Reading

3rd Reading

Ms. BRYDEN

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to provide for Municipal Hydro-Electric Service in
certain area municipalities in The Regional Municipality of
Ottawa-Carleton**

**THE HON. R. WELCH
Minister of Energy**

EXPLANATORY NOTES

The Bill establishes new hydro-electric commissions for the municipalities of Goulbourn and Kanata.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30, 1982, the members of its commission should be elected or appointed.

All customers in Kanata will be supplied with power by the new commission.

Customers in Goulbourn now supplied with power by Ontario Hydro will continue to be supplied by Ontario Hydro until the council of the area municipality, with the consent of Ontario Hydro, directs the new commission to supply power in all areas of the municipality.

Customers in Cumberland will continue to be supplied by Ontario Hydro until the Cumberland council, with the consent of Ontario Hydro, establishes a commission to supply power in all areas of the municipality.

In the interim, the councils of Cumberland and Goulbourn are required to review the supply of power at least once in every three years.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

Hydro-electric service in the municipalities of Gloucester, Nepean, Osgoode, Ottawa, Rideau, Rockcliffe Park, Vanier and West Carleton is not affected.

BILL 92

1980

An Act to provide for Municipal Hydro-Electric Service in certain area municipalities in The Regional Municipality of Ottawa-Carleton

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the Township of Cumberland, the Township of Goulbourn or the City of Kanata;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the whole or any part of an area municipality immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*;
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;
- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of

R.S.O. 1970,
c. 390

power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the Township of Goulbourn and the City of Kanata is hereby established.

Application
of
R.S.O. 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Goulbourn Hydro-Electric Commission.

2. Kanata Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Goulbourn

(6) For the term expiring with the 30th day of November, 1982, the Goulbourn Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Goulbourn and the following additional members who shall be appointed by the council of the Township of Goulbourn:

1. Two members of the Hydro-Electric Commission of the Village of Richmond as it existed immediately before the coming into force of this Act.

2. Two persons who reside outside the part of the Township of Goulbourn supplied with power by a municipal commission immediately before the coming into force of this Act.

First
commission,
Kanata

(7) For the term expiring with the 30th day of November 1982, the Kanata Hydro-Electric Commission established by subsection

1 shall consist of the mayor of the City of Kanata and four additional members who shall be appointed by the council of the City of Kanata.

(8) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Additional
members
of first
commission
1977, c. 62

(9) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Additional
members of
subsequent
commissions

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Eligibility
of members
of council

(11) Subject to subsections 6 and 7, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Term of
office

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Delegates

(13) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Resignations

(14) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Ottawa-Carleton Act* on the 1st day of January, 1980.

Salaries

R.S.O. 1970,
c. 407

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to
distribute
and supply
power

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting
contracts

R.S.O. 1970,
c. 354

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Contract
with
Ontario
Hydro

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Idem

R.S.O. 1970,
c. 284

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Application
of
R.S.O. 1970,
c. 354

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Direct
customers

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Establish-
ment of
commission
by by-law
in
Cumberland

4.—(1) The council of the Township of Cumberland, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Cumberland and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Cumberland.

Name of
commission

(2) The commission established under subsection 1 shall be known as the Cumberland Hydro-Electric Commission.

(3) The Commission established under subsection 1,

Composition

- (a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and

R.S.O. 1970,
cc. 390, 354

- (b) shall consist of the mayor of the Township of Cumberland and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Cumberland.

1977, c. 62

(4) The council of the Township of Cumberland shall appoint the first additional members of the commission established under subsection 1.

First
additional
members

(5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Cumberland provides by by-law that the additional members shall be appointed by the council.

Subsequent
additional
members

(6) Upon the establishment of a commission under subsection 1,

Application
of other
sections
of Act

- (a) subsections 5, 10, 11, 12 and 13 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and
- (b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.

(7) Until such time as the power conferred by subsection 1 has been exercised,

Review of
distribution
and supply
of power

- (a) the council of the Township of Cumberland shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

Supply of
power in
all areas
of muni-
cipality of
Goulbourn

5.—(1) The council of the Township of Goulbourn, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
 - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
 - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of
distribution
and supply
of power

(2) Until such time as the power conferred by subsection 1 has been exercised,

- (a) the council of the Township of Goulbourn shall review the distribution and supply of power within the area municipality at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council of the Township of Goulbourn determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the area municipality to distribute and supply power in the entire area municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the townships of Cumberland and Goulbourn that Ontario Hydro served immediately before the coming into force of this Act.

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Termination
of duty to
distribute
and supply
power

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality mentioned in subsection 1 until the passing of the by-law referred to in subsection 2.

Assets
and
employees

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transfer of
assets and
liabilities

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Transitional

(3) Notwithstanding subsection 1, the Kanata Hydro-Electric Commission established by section 2 shall purchase from The Hydro-Electric Commission of the City of Nepean and The Hydro-Electric Commission of the City of Nepean shall sell to the Kanata Hydro-Electric Commission established by section 2 the assets pertaining to the retail distribution and supply of power in that portion of the City of Kanata supplied with power by The Hydro-Electric Commission of the City of Nepean immediately before the coming into force of this Act, and the purchase price shall be equal to the original cost of the assets less the sum of,

Purchase
by
Kanata
Hydro-
Electric
Commission

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area

Leased
equipment

municipalities for the use of power supplied to the retail customers.

Purchase
price

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

Interpre-
tation

9.—(1) In this section, “parties” means,

(a) in the case of subsection 3 of section 7, the Kanata Hydro-Electric Commission established by section 2 and The Hydro-Electric Commission of the City of Nepean; and

(b) in the case of section 8, Ontario Hydro and, in each case, the commission established by section 2.

Where price
to be
determined
by
arbitration

(2) If the purchase price under subsection 3 of section 7 or section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Application
of
R.S.O. 1970,
c. 25

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Vesting
of real
property

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property,

whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.

2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

11. Except as otherwise provided in this Act, sections 96 to 117 of *The Regional Municipality of Ottawa-Carleton Act* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Borrowing
R.S.O. 1970,
c. 407

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Interpre-
tation

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer
of
employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or
salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be

Partici-
pation in
O.M.E.R.S.

R.S.O. 1970,
c. 324

deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Transfer of
pension
credits
from
Ontario
Hydro
Plan

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer. Group life insurance

(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date. Idem

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits. Sick leave

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2. Life insurance provided to pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause. Termination for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship. Special circumstances

13. For the purposes of section 123 *f* of *The Regional Municipality of Ottawa-Carleton Act*, the 1st day of January, 1981 shall be deemed to be the date designated by the Minister and on that date the Hydro-Electric Commission of the Village of Richmond is dissolved, any by-laws establishing it shall be deemed to be repealed and the assent of the municipal electors is not required. Dissolution of Hydro-Electric Commission of Village of Richmond
R.S.O. 1970, c. 407

14. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 7 or subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
 - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,
 - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
 - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
 - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
 - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 12 in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is *The Ottawa-Carleton Municipal Hydro-Electric Service Act, 1980*.

An Act to provide for Municipal Hydro-
Electric Service in certain area municipalities
in The Regional Municipality of
Ottawa-Carleton

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Energy

(*Government Bill*)

BILL 92

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to provide for Municipal Hydro-Electric Service in certain area municipalities in The Regional Municipality of Ottawa-Carleton

THE HON. R. WELCH
Minister of Energy

TORONTO

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BILL 92

1980

An Act to provide for Municipal Hydro-Electric Service in certain area municipalities in The Regional Municipality of Ottawa-Carleton

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “accumulated net retail equity” means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) “area municipality” means the municipality or corporation of the Township of Cumberland, the Township of Goulbourn or the City of Kanata;
- (c) “Minister” means the Minister of Intergovernmental Affairs;
- (d) “municipal commission” means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the whole or any part of an area municipality immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*;
- (e) “power” means electrical power and includes electrical energy;
- (f) “regulations” means the regulations made under this Act;
- (g) “retail”, when used in relation to the distribution and supply of power, refers to the distribution and supply of

R.S.O. 1970,
c. 390

power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the Township of Goulbourn and the City of Kanata is hereby established.

Application
of
R.S.O. 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Goulbourn Hydro-Electric Commission.
2. Kanata Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Goulbourn

(6) For the term expiring with the 30th day of November, 1982, the Goulbourn Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Goulbourn and the following additional members who shall be appointed by the council of the Township of Goulbourn:

1. Two members of the Hydro-Electric Commission of the Village of Richmond as it existed immediately before the coming into force of this Act.
2. Two persons who reside outside the part of the Township of Goulbourn supplied with power by a municipal commission immediately before the coming into force of this Act.

First
commission,
Kanata

(7) For the term expiring with the 30th day of November 1982, the Kanata Hydro-Electric Commission established by subsection

1 shall consist of the mayor of the City of Kanata and four additional members who shall be appointed by the council of the City of Kanata.

(8) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Additional
members
of first
commission
1977, c. 62

(9) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Additional
members of
subsequent
commissions

(10) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Eligibility
of members
of council

(11) Subject to subsections 6 and 7, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Term of
office

(12) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Delegates

(13) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Resignations

(14) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Ottawa-Carleton Act* on the 1st day of January, 1980.

Salaries

R.S.O. 1970,
c. 407

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public Utilities Act* on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

Right to
distribute
and supply
power

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Subsisting
contracts

R.S.O. 1970,
c. 354

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Contract
with
Ontario
Hydro

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Idem

R.S.O. 1970,
c. 284

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Application
of
R.S.O. 1970,
c. 354

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Direct
customers

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Establish-
ment of
commission
by by-law
in
Cumberland

4.—(1) The council of the Township of Cumberland, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Cumberland and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Cumberland.

Name of
commission

(2) The commission established under subsection 1 shall be known as the Cumberland Hydro-Electric Commission.

- (3) The Commission established under subsection 1, Composition
- (a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and R.S.O. 1970, cc. 390, 354
- (b) shall consist of the mayor of the Township of Cumberland and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Cumberland. 1977, c. 62
- (4) The council of the Township of Cumberland shall appoint the first additional members of the commission established under subsection 1. First additional members
- (5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Cumberland provides by by-law that the additional members shall be appointed by the council. Subsequent additional members
- (6) Upon the establishment of a commission under subsection 1, Application of other sections of Act
- (a) subsections 5, 10, 11, 12 and 13 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and
- (b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.
- (7) Until such time as the power conferred by subsection 1 has been exercised, Review of distribution and supply of power
- (a) the council of the Township of Cumberland shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

Supply of
power in
all areas
of municip-
ality of
Goulbourn

5.—(1) The council of the Township of Goulbourn, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
 - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
 - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

Review of
distribution
and supply
of power

(2) Until such time as the power conferred by subsection 1 has been exercised,

- (a) the council of the Township of Goulbourn shall review the distribution and supply of power within the area municipality at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council of the Township of Goulbourn determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the area municipality to distribute and supply power in the entire area municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the townships of Cumberland and Goulbourn that Ontario Hydro served immediately before the coming into force of this Act.

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Termination
of duty to
distribute
and supply
power

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality mentioned in subsection 1 until the passing of the by-law referred to in subsection 2.

Assets
and
employees

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transfer of
assets and
liabilities

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Transitional

(3) Notwithstanding subsection 1, the Kanata Hydro-Electric Commission established by section 2 shall purchase from The Hydro-Electric Commission of the City of Nepean and The Hydro-Electric Commission of the City of Nepean shall sell to the Kanata Hydro-Electric Commission established by section 2 the assets pertaining to the retail distribution and supply of power in that portion of the City of Kanata supplied with power by The Hydro-Electric Commission of the City of Nepean immediately before the coming into force of this Act, and the purchase price shall be equal to the original cost of the assets less the sum of,

Purchase
by
Kanata
Hydro-
Electric
Commission

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area

Leased
equipment

municipalities for the use of power supplied to the retail customers.

Purchase
price

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

Interpre-
tation

9.—(1) In this section, “parties” means,

- (a) in the case of subsection 3 of section 7, the Kanata Hydro-Electric Commission established by section 2 and The Hydro-Electric Commission of the City of Nepean; and
- (b) in the case of section 8, Ontario Hydro and, in each case, the commission established by section 2.

Where price
to be
determined
by
arbitration

(2) If the purchase price under subsection 3 of section 7 or section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Application
of
R.S.O. 1970,
c. 25

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Vesting
of real
property

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Disposition
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property,

whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.

2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

11. Except as otherwise provided in this Act, sections 96 to 117 of *The Regional Municipality of Ottawa-Carleton Act* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Borrowing
R.S.O. 1970,
c. 407

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Interpre-
tation

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Transfer
of
employees

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Wages or
salaries

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be

Partici-
pation in
O.M.E.R.S.

R.S.O. 1970,
c. 324

deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission.

Transfer of
pension
credits
from
Ontario
Hydro
Plan

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Pension
guarantee

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

Idem

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Sick leave

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.

Life
insurance
provided
to
pensioners

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Termination
for cause

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Special
circum-
stances

13. For the purposes of section 123 *f* of *The Regional Municipality of Ottawa-Carleton Act*, the 1st day of January, 1981 shall be deemed to be the date designated by the Minister and on that date the Hydro-Electric Commission of the Village of Richmond is dissolved, any by-laws establishing it shall be deemed to be repealed and the assent of the municipal electors is not required.

Dissolution
of
Hydro-
Electric
Commission
of
Village of
Richmond
R.S.O. 1970,
c. 407

14. The Lieutenant Governor in Council may make regulations,

Regulations

(a) for the purpose of subsection 3 of section 7 or subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
 - (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
 - (iii) the method of determining the amount of any component of the accumulated net retail equity,
 - (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
 - (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
 - (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
 - (vii) the method of payment of the price of the assets;
- (b) for the purposes of subsection 7 of section 12 in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

Commence-
ment

15. This Act comes into force on the day it receives Royal Assent.

Short title

16. The short title of this Act is *The Ottawa-Carleton Municipal Hydro-Electric Service Act, 1980*.

An Act to provide for Municipal Hydro-
Electric Service in certain area municipalities
in The Regional Municipality of
Ottawa-Carleton

1st Reading

June 5th, 1980

2nd Reading

June 18th, 1980

3rd Reading

June 19th, 1980

THE HON. R. WELCH
Minister of Energy

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to provide for Municipal Hydro-Electric Service in
The Regional Municipality of Hamilton-Wentworth**

THE HON. R. WELCH
Minister of Energy

EXPLANATORY NOTE

The Bill establishes new hydro-electric commissions for the municipalities of Ancaster, Dundas, Flamborough and Stoney Creek.

A transitional period is provided before the new commissions become fully operational.

The members of each commission will be the mayor of the area municipality and additional members qualified as municipal electors in the municipality.

The council of each area municipality will determine whether after November 30, 1982, the members of its commission should be elected or appointed.

All customers in Dundas and Stoney Creek will be supplied with power by the new commissions.

Customers in Ancaster and Flamborough now supplied with power by Ontario Hydro will continue to be supplied by Ontario Hydro until the council of the area municipality, with the consent of Ontario Hydro, directs the new commission to supply power in all areas of the municipality.

Customers in Ancaster now supplied with power by the Lynden Hydro-Electric Commission will be supplied by the new Flamborough Hydro-Electric Commission until either the new Ancaster Hydro-Electric Commission commences to supply power in all areas of the Town of Ancaster or the new Flamborough Hydro-Electric Commission is dissolved by by-law passed with the consent of Ontario Hydro.

Customers in Glanbrook will continue to be supplied by Ontario Hydro until the Glanbrook council, with the consent of Ontario Hydro, establishes a commission to supply power in all areas of the municipality.

In the interim, the councils of Ancaster, Flamborough and Glanbrook are required to review the supply of power at least once in every three years.

Provision is made for the transfer of employees and the protection of their salaries and benefits.

Hydro-Electric service in the City of Hamilton is not affected but Hamilton Hydro-Electric Commission is removed from the application of section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* and placed under Part III of *The Public Utilities Act*.

BILL 93 1980

An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of Hamilton-Wentworth

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation

(a) “accumulated net retail equity” means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;

(b) “area municipality” means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the Town of Stoney Creek, the Township of Flamborough and the Township of Glanbrook;

(c) “Minister” means the Minister of Intergovernmental Affairs;

(d) “municipal commission” means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 74
R.S.O. 1970,
c. 390

(e) “power” means electrical power and includes electrical energy;

(f) “regulations” means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Ancaster, Dundas and Stoney Creek and the Township of Flamborough is hereby established.

Application
of
R.S.O. 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Ancaster Hydro-Electric Commission.
2. Dundas Hydro-Electric Commission.
3. Flamborough Hydro-Electric Commission.
4. Stoney Creek Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Ancaster

(6) For the term expiring with the 30th day of November, 1982, the Ancaster Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Ancaster and the following additional members who shall be appointed by the council of the Town of Ancaster:

1. Two members of the Public Utilities Commission of the Township of Ancaster as it existed immediately before the coming into force of this Act.

2. Two persons who reside outside the part of the Town of Ancaster supplied with power by a municipal commission immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1982, the Dundas Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Dundas and the following additional members who shall be appointed by the council of the Town of Dundas:

First
commission,
Dundas

1. Three members of the Dundas Public Utilities Commission as it existed immediately before the coming into force of this Act.
2. One person who resides outside the part of the Town of Dundas supplied with power by a municipal commission immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1982, the Flamborough Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Flamborough and the following additional members who shall be appointed by the council of the Township of Flamborough:

First
commission,
Flamborough

1. One member of the Public Utilities Commission of the Village of Waterdown as it existed immediately before the coming into force of this Act.
2. One member of the Lynden Hydro-Electric Commission as it existed immediately before the coming into force of this Act.
3. Two persons who reside outside the part of the Township of Flamborough supplied with power by a municipal commission immediately before the coming into force of this Act.

(9) For the term expiring with the 30th day of November, 1982, the Stoney Creek Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Stoney Creek and the following additional members who shall be appointed by the council of the Town of Stoney Creek:

First
commission,
Stoney Creek

1. Two members of the Hydro-Electric Commission of the Town of Stoney Creek as it existed immediately before the coming into force of this Act.
2. Two persons who reside outside the part of the Town of Stoney Creek supplied with power by a municipal com-

mission immediately before the coming into force of this Act.

Additional
members
of first
commission
1977, c. 62

(10) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Subsequent
additional
members

(11) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Eligibility
of members
of council

(12) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of
office

(13) Subject to subsections 6 to 9, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(14) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary
of first
commissions

1973, c. 74

(15) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* on the 1st day of January, 1980.

Resignations

(16) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public*

Utilities Act on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Right to
distribute
and supply
power

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Subsisting
contracts

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Contract
with
Ontario
Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Idem

R.S.O. 1970,
c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Application of
R.S.O. 1970,
c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Direct
customers

4.—(1) The council of the Township of Glanbrook, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Glanbrook and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Glanbrook.

Establish-
ment of
commission
by by-law in
Glanbrook

(2) The commission established under subsection 1 shall be known as the Glanbrook Hydro-Electric Commission.

Name of
commission

(3) The commission established under subsection 1,

Composition

R.S.O. 1970,
cc. 390, 354

- (a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and

1977, c. 62

- (b) shall consist of the mayor of the Township of Glanbrook and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Glanbrook.

First
additional
members

- (4) The council of the Township of Glanbrook shall appoint the first additional members of the commission established under subsection 1.

Subsequent
additional
members

- (5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Glanbrook provides by by-law that the additional members shall be appointed by the council.

Application
of other
sections
of Act

- (6) Upon the establishment of a commission under subsection 1,

- (a) subsections 5, 12, 13, 14 and 16 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and

- (b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.

Review of
distribution
and supply
of power

- (7) Until such time as the power conferred by subsection 1 has been exercised,

- (a) the council of the Township of Glanbrook shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and

- (b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

5.—(1) The council of each of the Town of Ancaster and the Township of Flamborough, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

Supply of power in all areas of municipalities of Ancaster, Flamborough

- (a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or
- (b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,
 - (i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and
 - (ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

(2) Until such time as the power conferred by subsection 1 has been exercised,

Review of distribution and supply of power

- (a) the council of each of the Town of Ancaster and the Township of Flamborough shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council of the Town of Ancaster or the Township of Flamborough determines as provided in clause *a* that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

(3) The Flamborough Hydro-Electric Commission established by section 2 shall distribute and supply power to those customers in the Town of Ancaster to whom the Lynden Hydro-Electric Commission is distributing and supplying power as of the 31st day of December, 1980 until either,

Flamborough Hydro-Electric Commission, additional duty

- (a) the Ancaster Hydro-Electric Commission established by section 2 commences to distribute and supply power in all areas of the Town of Ancaster; or
- (b) the Flamborough Hydro-Electric Commission established by section 2 is dissolved,

as provided in subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Ancaster and the townships of Flamborough and Glanbrook that Ontario Hydro served immediately before the coming into force of this Act.

Termination
of duty to
distribute
and supply
power

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Assets and
employees

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality until the passing of the by-law referred to in subsection 2.

Transfer of
assets and
liabilities

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transitional

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Leased
equipment

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers.

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

Purchase
price

- (a) the accumulated net retail equity of the customers supplied with power through the assets; and
- (b) the accumulated depreciation associated with the assets.

9.—(1) In this section, “parties” means Ontario Hydro and, in each case, the commission established by section 2.

Interpre-
tation

(2) If the purchase price under section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Where price
to be deter-
mined by
arbitration

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Application of
R.S.O. 1970,
c. 25

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Vesting
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition
of real
property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real

property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

Borrowing
1973, c. 74

11. Except as otherwise provided in this Act, sections 92 to 113 of *The Regional Municipality of Hamilton-Wentworth Act*, 1973 apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-
tation

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of
employees

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or
salaries

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Participation
in O.M.E.R.S.

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,
c. 324

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the

coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of
pension credits
from
Ontario
Hydro Plan

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

Pension
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

Idem

(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

Sick leave

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.

Termination for cause

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Dissolution of existing commissions 1973, c. 74

13.—(1) For the purposes of section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* and except in respect of Hamilton Hydro-Electric Commission, the 1st day of January, 1981 is the date determined and the date designated by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, and on that date the municipal commissions, other than Hamilton Hydro-Electric Commission, supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and any by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

R.S.O. 1970, c. 390

Hamilton Hydro-Electric Commission

(2) On and after the day this Act comes into force, section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* does not apply to Hamilton Hydro-Electric Commission and

that Commission is no longer a local board and is a commission to which Part III of *The Public Utilities Act* applies.

R.S.O. 1970,
c. 390

14. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,
- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
- (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
- (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
- (vii) the method of payment of the price of the assets;

(b) for the purposes of subsection 7 of section 12, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

15. This Act comes into force on the day it receives Royal Assent. Commence-
ment

16. The short title of this Act is *The Hamilton-Wentworth Municipal Hydro-Electric Service Act, 1980*. Short title

An Act to provide for Municipal Hydro-
Electric Service in The Regional
Municipality of Hamilton-Wentworth

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

THE HON. R. WELCH
Minister of Energy

(Government Bill)

BILL 93

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of Hamilton-Wentworth

**THE HON. R. WELCH
Minister of Energy**

TORONTO

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BILL 93

1980

An Act to provide for Municipal Hydro-Electric Service in The Regional Municipality of Hamilton-Wentworth

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "accumulated net retail equity" means the portion of equity accumulated through debt retirement appropriations recorded for the Rural Power District relating to Ontario Hydro's rural retail system plus the portion of the balance recorded for customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;
- (b) "area municipality" means the municipality or corporation of the Town of Ancaster, the Town of Dundas, the Town of Stoney Creek, the Township of Flamborough and the Township of Glanbrook;
- (c) "Minister" means the Minister of Intergovernmental Affairs;
- (d) "municipal commission" means a hydro-electric commission or public utilities commission entrusted with the control and management of works for the retail distribution and supply of power in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* immediately before the coming into force of this Act and established or deemed to be established under Part III of *The Public Utilities Act*; 1973, c. 74
R.S.O. 1970,
c. 390
- (e) "power" means electrical power and includes electrical energy;
- (f) "regulations" means the regulations made under this Act;

- (g) "retail", when used in relation to the distribution and supply of power, refers to the distribution and supply of power at voltages less than 50 kilovolts, but does not refer to works located within a transformer station that transform power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

Commissions
established

2.—(1) On the day this Act comes into force, a hydro-electric commission for each of the towns of Ancaster, Dundas and Stoney Creek and the Township of Flamborough is hereby established.

Application
of
R.S.O. 1970,
cc. 390, 354

(2) Each commission established by subsection 1 shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*.

Names of
commissions

(3) Each commission established by subsection 1 shall be known by the name set out below that relates to the area municipality in respect of which the commission is established:

1. Ancaster Hydro-Electric Commission.
2. Dundas Hydro-Electric Commission.
3. Flamborough Hydro-Electric Commission.
4. Stoney Creek Hydro-Electric Commission.

Composition

1977, c. 62

(4) Each commission established by subsection 1 shall consist of the mayor of the area municipality in respect of which the commission is established and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the area municipality.

When area
municipality
may deter-
mine size of
commission

(5) Except as otherwise provided in this Act, the council of each area municipality shall determine by by-law whether the number of additional members of the commission established by subsection 1 in respect of the area municipality shall be two or four.

First
commission,
Ancaster

(6) For the term expiring with the 30th day of November, 1982, the Ancaster Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Ancaster and the following additional members who shall be appointed by the council of the Town of Ancaster:

1. Two members of the Public Utilities Commission of the Township of Ancaster as it existed immediately before the coming into force of this Act.

2. Two persons who reside outside the part of the Town of Ancaster supplied with power by a municipal commission immediately before the coming into force of this Act.

(7) For the term expiring with the 30th day of November, 1982, the Dundas Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Dundas and the following additional members who shall be appointed by the council of the Town of Dundas:

First
commission,
Dundas

1. Three members of the Dundas Public Utilities Commission as it existed immediately before the coming into force of this Act.
2. One person who resides outside the part of the Town of Dundas supplied with power by a municipal commission immediately before the coming into force of this Act.

(8) For the term expiring with the 30th day of November, 1982, the Flamborough Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Township of Flamborough and the following additional members who shall be appointed by the council of the Township of Flamborough:

First
commission,
Flamborough

1. One member of the Public Utilities Commission of the Village of Waterdown as it existed immediately before the coming into force of this Act.
2. One member of the Lynden Hydro-Electric Commission as it existed immediately before the coming into force of this Act.
3. Two persons who reside outside the part of the Township of Flamborough supplied with power by a municipal commission immediately before the coming into force of this Act.

(9) For the term expiring with the 30th day of November, 1982, the Stoney Creek Hydro-Electric Commission established by subsection 1 shall consist of the mayor of the Town of Stoney Creek and the following additional members who shall be appointed by the council of the Town of Stoney Creek:

First
commission,
Stoney Creek

1. Two members of the Hydro-Electric Commission of the Town of Stoney Creek as it existed immediately before the coming into force of this Act.
2. Two persons who reside outside the part of the Town of Stoney Creek supplied with power by a municipal com-

mission immediately before the coming into force of this Act.

Additional
members
of first
commission

1977, c. 62

(10) Where this section provides that one or more members of a municipal commission are to be additional members for a term specified by this section and the number of such members who are qualified electors under *The Municipal Elections Act, 1977* is less than the required number of additional members, the council of the area municipality in respect of which the commission was established under subsection 1 shall appoint an additional member or additional members so that there will be the required number of additional members of the corporation.

Subsequent
additional
members

(11) For terms commencing after the 30th day of November, 1982, the additional members of each commission established by subsection 1 shall be elected by a general vote of the electors of the area municipality served by the commission, unless before the 1st day of July, 1982 the council of the area municipality provides by by-law that the additional members shall be appointed by the council.

Eligibility
of members
of council

(12) Members of the council of the area municipality served by a commission established by subsection 1 may be members of the commission, but the members of the council shall not form a majority of the commission.

Term of
office

(13) Subject to subsections 6 to 9, a member of a commission established by subsection 1 shall hold office for the same term as the members of council or until his successor is elected or appointed.

Delegates

(14) The council of an area municipality served by a commission established by subsection 1 may, by by-law passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Salary
of first
commissions

1973, c. 74

(15) The salaries of the members of the commissions established by subsection 1 for the term expiring with the 30th day of November, 1982 shall be fixed on or before the 1st day of October, 1980 in an amount that does not exceed the highest salary paid to members of the municipal commissions operating in the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973* on the 1st day of January, 1980.

Resignations

(16) A resignation from the council of an area municipality of a member of the council who is a member of a commission established by subsection 1 shall be deemed to be a resignation from both the council and the commission.

Powers of
commissions
R.S.O. 1970,
c. 390

3.—(1) Except as herein provided, all the powers, rights, authorities and privileges that are conferred by *The Public*

Utilities Act on a municipal corporation with respect to power shall, on and after the 1st day of January, 1981, be exercised on behalf of each area municipality by the commission established by section 2 in respect of the area municipality and not by the council of any municipality or any other person.

(2) Subject to sections 5 and 6, on and after the 1st day of January, 1981, each commission established by section 2 has the sole right to distribute and supply power within the area municipality in respect of which it is established.

Right to
distribute
and supply
power

(3) The right of a commission established by section 2 to distribute and supply power is subject to any subsisting contracts for the supply of power made under section 70 of *The Power Corporation Act*.

Subsisting
contracts

(4) A commission established by section 2 may contract with Ontario Hydro without electoral assent or other approval or authorization for the transmission and supply to the commission of power to be distributed and sold in the area municipality served by the commission.

Contract
with
Ontario
Hydro

(5) A contract under subsection 4 shall be deemed to be an agreement within the meaning of clause s of subsection 2 of section 293 of *The Municipal Act*.

Idem

R.S.O. 1970,
c. 284

(6) Except where inconsistent with the provisions of this Act, the provisions of *The Power Corporation Act* applicable to a municipal corporation that has entered into a contract with Ontario Hydro for the distribution and supply of power to the municipal corporation apply to the commissions established by section 2.

Application of
R.S.O. 1970,
c. 354

(7) With the consent of a commission established by section 2, Ontario Hydro may distribute and supply power directly to customers in the area municipality in respect of which the commission is established.

Direct
customers

4.—(1) The council of the Township of Glanbrook, with the consent of Ontario Hydro, may establish by by-law a hydro-electric commission for the Township of Glanbrook and, commencing on the date that the council shall specify in the by-law, the commission shall distribute and supply power in all of the Township of Glanbrook.

Establish-
ment of
commission
by by-law in
Glanbrook

(2) The commission established under subsection 1 shall be known as the Glanbrook Hydro-Electric Commission.

Name of
commission

(3) The commission established under subsection 1,

Composition

- R.S.O. 1970,
cc. 390, 354
- (a) shall be deemed to be a commission established under Part III of *The Public Utilities Act* and a municipal commission within the meaning of *The Power Corporation Act*; and
- 1977, c. 62
- (b) shall consist of the mayor of the Township of Glanbrook and additional members who are qualified electors under *The Municipal Elections Act, 1977* in the Township of Glanbrook.
- First additional members
- (4) The council of the Township of Glanbrook shall appoint the first additional members of the commission established under subsection 1.
- Subsequent additional members
- (5) For terms after the first term, the additional members of the commission shall be elected by a general vote of the electors of the area municipality unless, before the completion of the first term of office of the members of the commission, the council of the Township of Glanbrook provides by by-law that the additional members shall be appointed by the council.
- Application of other sections of Act
- (6) Upon the establishment of a commission under subsection 1,
- (a) subsections 5, 12, 13, 14 and 16 of section 2, section 3, subsection 2 of section 6 and sections 8 to 12 shall apply with necessary modifications and, for the purpose, the dates mentioned therein shall be deemed to be the dates that shall be specified in the by-law mentioned in subsection 1; and
- (b) the commission, for the purposes of clause *a*, shall be deemed to be a commission established by section 2.
- Review of distribution and supply of power
- (7) Until such time as the power conferred by subsection 1 has been exercised,
- (a) the council of the Township of Glanbrook shall review the distribution and supply of power within the area municipality at least once in every three years, and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and
- (b) where the council determines as provided in clause *a* that it is financially feasible, the council shall exercise the power conferred by subsection 1.

5.—(1) The council of each of the Town of Ancaster and the Township of Flamborough, with the consent of Ontario Hydro and without the assent of the municipal electors, by by-law,

Supply of power in all areas of municipalities of Ancaster, Flamborough

(a) may direct the commission established by section 2 in respect of the municipality to commence on a day specified by the by-law the distribution and supply of power in all areas of the municipality and on the specified day sections 8 and 12 shall apply with necessary modifications to the assets and employees of Ontario Hydro in the municipality; or

(b) may dissolve the commission established by section 2 in respect of the municipality on a day specified by the by-law and on the specified day,

(i) all assets under the control and management of and all liabilities of the commission, and all debentures issued in respect of the distribution and supply of power in the municipality are, without compensation, assets and liabilities of Ontario Hydro, and

(ii) Ontario Hydro shall commence to distribute and supply power in all areas of the municipality.

(2) Until such time as the power conferred by subsection 1 has been exercised,

Review of distribution and supply of power

(a) the council of each of the Town of Ancaster and the Township of Flamborough shall review the distribution and supply of power within their respective municipalities at least once in every three years and shall determine by resolution whether or not it is financially feasible to exercise the power conferred by subsection 1; and

(b) where the council of the Town of Ancaster or the Township of Flamborough determines as provided in clause a that it is financially feasible for the commission established under section 2 in respect of the municipality to distribute and supply power in the entire municipality, the council, subject to the approval of Ontario Hydro, shall exercise the power conferred by subsection 1.

(3) The Flamborough Hydro-Electric Commission established by section 2 shall distribute and supply power to those customers in the Town of Ancaster to whom the Lynden Hydro-Electric Commission is distributing and supplying power as of the 31st day of December, 1980 until either,

Flamborough Hydro-Electric Commission, additional duty

(a) the Ancaster Hydro-Electric Commission established by section 2 commences to distribute and supply power in all areas of the Town of Ancaster; or

(b) the Flamborough Hydro-Electric Commission established by section 2 is dissolved,

as provided in subsection 1.

Where
Ontario
Hydro to
distribute
and supply
power

6.—(1) Ontario Hydro shall continue to distribute and supply power in those areas of the Town of Ancaster and the townships of Flamborough and Glanbrook that Ontario Hydro served immediately before the coming into force of this Act.

Termination
of duty to
distribute
and supply
power

(2) The duty of Ontario Hydro under subsection 1 to distribute and supply power in an area municipality is terminated, on the date specified in the by-law, by a by-law passed with the consent of Ontario Hydro by the council of the area municipality under subsection 1 of section 4 or clause *a* of subsection 1 of section 5.

Assets and
employees

(3) Sections 8 and 12 do not apply in respect of the assets and employees of Ontario Hydro in an area municipality until the passing of the by-law referred to in subsection 2.

Transfer of
assets and
liabilities

7.—(1) On the 1st day of January, 1981, all assets under the control and management of and all liabilities of the municipal commissions in each area municipality are, without compensation, assets under the control and management of and liabilities of the commission established by section 2 in respect of the area municipality.

Transitional

(2) Any of the assets, powers and responsibilities of the municipal commissions in an area municipality that pertain to the distribution and supply of power in the area municipality may be transferred by agreement before the 1st day of January, 1981 to the commission established by section 2 in respect of the area municipality.

Purchase
of retail
distribution
facilities
from
Ontario
Hydro

8.—(1) On or before the 1st day of January, 1981, each commission established by section 2 shall purchase, on behalf of the area municipality served by the commission, and Ontario Hydro shall sell to the commission, the assets and liabilities of Ontario Hydro that pertain to the distribution and supply of power at retail in the area municipality.

Leased
equipment

(2) The purchases mentioned in subsection 1 shall include equipment leased by Ontario Hydro to retail customers in the area municipalities for the use of power supplied to the retail customers.

(3) The purchase price shall be determined in accordance with the regulations and shall be equal to the original cost of the assets less the sum of,

Purchase
price

(a) the accumulated net retail equity of the customers supplied with power through the assets; and

(b) the accumulated depreciation associated with the assets.

9.—(1) In this section, “parties” means Ontario Hydro and, in each case, the commission established by section 2.

Interpre-
tation

(2) If the purchase price under section 8 is not determined before the 1st day of January, 1982, either of the parties at any time thereafter may request that the purchase price be determined by a single arbitrator agreed on by the parties.

Where price
to be deter-
mined by
arbitration

(3) *The Arbitrations Act* applies where a request is made under subsection 2.

Application of
R.S.O. 1970,
c. 25

10.—(1) All real property transferred by section 7 to the control and management of a commission established by section 2 or otherwise acquired by or for the commission shall be held by the commission in trust for the area municipality served by the commission.

Vesting
of real
property

(2) Where a commission established by section 2 is of the opinion, and so declares by resolution, that any real property under its control and management is not required for its purposes, unless otherwise agreed upon by the commission and the area municipality served by the commission, the real property may be disposed of as follows:

Disposition
of real
property

1. In the event that the area municipality served by the commission wishes in good faith to use the real property for a municipal purpose, it shall compensate the commission for the real property at its actual cost, less accrued depreciation as shown on the books of the commission or the assessed value of the real property, whichever is the greater, and when the municipality in good faith no longer wishes to use the real property for a municipal purpose, the area municipality may sell, lease or otherwise dispose of the real property without the assent of Ontario Hydro and may retain the proceeds of the sale, lease or disposition as municipal funds.
2. In the event that the municipality served by the commission does not wish to use the real property in accordance with paragraph 1, the commission shall, as soon as practicable, sell, lease or otherwise dispose of the real

property at fair market value on behalf of the municipality and the net proceeds derived from the sale, lease or other disposition of the real property or the compensation paid therefor under this subsection shall be received by the commission and shall be applied in accordance with *The Public Utilities Act*.

R.S.O. 1970,
c. 390

Borrowing
1973, c. 74

11. Except as otherwise provided in this Act, sections 92 to 113 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* apply, with necessary modifications, to any borrowing for the purposes of a commission established by section 2.

Interpre-
tation

12.—(1) In this section, “transfer date”, when used in respect of an employee of a municipal commission or Ontario Hydro, means the date on which a commission established by section 2 assumes liability for the payment of the wages or salary of the employee.

Transfer of
employees

(2) On or before the 31st day of December, 1980, Ontario Hydro and each municipal commission that supplied power in an area municipality immediately before the coming into force of this Act shall designate those of their full-time employees who were employed in the distribution and supply of power in an area municipality on the 1st day of January, 1980, and who continued such employment until the 31st day of December, 1980 or until their transfer dates, as the case may be, and each commission established by section 2 shall offer employment to the employees designated in respect of the area municipality served by the commission.

Wages or
salaries

(3) A person who accepts employment under this section is entitled to receive, for a period of one year commencing on the transfer date, a wage or salary not less than the wage or salary he was receiving on the day nine months before the transfer date.

Participation
in O.M.E.R.S.

(4) Each commission established by section 2 shall be deemed to have elected to participate in the Ontario Municipal Employees Retirement System on the day this Act comes into force, and a person who accepts employment under this section shall be deemed to continue or to become a member of the System, as the case requires, on his transfer date, and *The Ontario Municipal Employees Retirement System Act* applies to such person as a member of the System.

R.S.O. 1970,
c. 324

Supple-
mentary
agreements

(5) When a person who accepts employment under this section with a commission established by section 2 is entitled immediately before this transfer date to the benefit of a supplementary agreement between the Ontario Municipal Employees Retirement Board and a municipal commission that, immediately before the

coming into force of this Act, supplied power in an area municipality mentioned in subsection 1 of section 2, the commission established by section 2 shall assume, in respect of the person, all rights and obligations under the supplementary agreement as if the commission had been a party to the agreement in the place of the municipal commission

(6) Where a person who accepts employment under this section is a contributor to The Pension and Insurance Fund of Ontario Hydro immediately before his transfer date, the present value of the pension earned by the person in The Pension and Insurance Fund of Ontario Hydro at the transfer date or the contributions of the person in the Fund with interest accumulated and credited to the person in the Fund, whichever is the greater, shall be transferred to the Ontario Municipal Employees Retirement Fund and the person shall be given credit in the Ontario Municipal Employees Retirement System for a period of service equal to the period of service for which he was given credit in The Ontario Hydro Pension and Insurance Plan.

Transfer of
pension credits
from
Ontario
Hydro Plan

(7) Notwithstanding subsection 4, a person who accepts employment under this section with a commission established by section 2 and who,

Pension
guarantee

- (a) was employed by Ontario Hydro immediately before his transfer date; and
- (b) continues in the employment of a municipal hydro-electric commission until he or his beneficiary becomes entitled to a pension benefit,

is entitled to at least the pension benefit he would have been entitled to under The Ontario Hydro Pension and Insurance Plan if his years of continuous service with the commission had been additional years of continuous service with Ontario Hydro and if there had been no change in the Plan after the 31st day of December, 1980, calculated on the basis of the wage or salary paid to the person by Ontario Hydro and the commission, and the cost, if any, of the pension benefit over the cost of the pension benefit to which the person is entitled under subsection 4 shall be apportioned and paid as provided by the regulations.

(8) A person who accepts employment under this section is entitled as a term of his employment to continue as a member of the group life insurance plan in which he was a member with his former employer until the effective date of a common group life insurance plan covering all eligible employees of his new employer.

Group life
insurance

Idem

(9) On or before the 31st day of December, 1982, each commission established by section 2 shall provide a common group life insurance plan covering all of the eligible employees of the commission, and the plan shall provide to any person accepting employment under this section, by option or otherwise, insurance coverage not inferior to the insurance coverage to which the person was entitled immediately before his transfer date.

Sick leave

(10) A person who accepts employment under this section shall continue to enjoy the rights and benefits of sick leave entitlements or sick leave insurance provided by his former employer immediately before the transfer date until the new employer establishes a sick leave entitlement plan or sick leave insurance plan, and thereupon the person shall receive allowance or credit for any accrued sick leave rights or benefits.

Life insurance provided to pensioners

(11) Each commission established by section 2 shall continue the provision of life insurance to pensioners formerly employed by a municipal commission in the distribution and supply of power in the area municipality served by the commission established by section 2.

Termination for cause

(12) Nothing in this section prevents an employer from terminating the employment of an employee for cause.

Special circumstances

(13) Where, in the opinion of the Minister, a person who is designated or who accepts employment under this section experiences any difficulty or hardship with regard to life insurance benefits, pension rights, pension benefits or sick leave rights or benefits, the Minister by order may do anything necessary to remedy or alleviate such difficulty or hardship.

Dissolution of existing commissions 1973, c. 74

13.—(1) For the purposes of section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* and except in respect of Hamilton Hydro-Electric Commission, the 1st day of January, 1981 is the date determined and the date designated by the Minister in respect of the Regional Area within the meaning of *The Regional Municipality of Hamilton-Wentworth Act, 1973*, and on that date the municipal commissions, other than Hamilton Hydro-Electric Commission, supplying only electrical power and energy in that area immediately before the coming into force of this Act are dissolved and any by-laws establishing them passed under sections 38 and 40 of *The Public Utilities Act* shall be deemed to be repealed and the assent of the municipal electors is not required.

R.S.O. 1970, c. 390

Hamilton Hydro-Electric Commission

(2) On and after the day this Act comes into force, section 135 of *The Regional Municipality of Hamilton-Wentworth Act, 1973* does not apply to Hamilton Hydro-Electric Commission and

that Commission is no longer a local board and is a commission to which Part III of *The Public Utilities Act* applies.

R.S.O. 1970,
c. 390

14. The Lieutenant Governor in Council may make regulations, Regulations

(a) for the purpose of subsection 3 of section 8 in respect of,

- (i) the method of determining the original cost of the assets or of any asset or of any part of any asset,
- (ii) the allocation of the original cost of the assets or of any asset or of any part of any asset,
- (iii) the method of determining the amount of any component of the accumulated net retail equity,
- (iv) the allocation of the accumulated net retail equity or any component of the accumulated net retail equity,
- (v) the method of calculating accumulated depreciation of any component of accumulated depreciation,
- (vi) the allocation of accumulated depreciation or any component of accumulated depreciation,
- (vii) the method of payment of the price of the assets;

(b) for the purposes of subsection 7 of section 12, in respect of the apportionment of the excess cost of any benefit referred to in the subsection and the payment of the excess cost or any part thereof.

15. This Act comes into force on the day it receives Royal Assent. Commence-
ment

16. The short title of this Act is *The Hamilton-Wentworth Municipal Hydro-Electric Service Act, 1980*. Short title

An Act to provide for Municipal Hydro-
Electric Service in The Regional
Municipality of Hamilton-Wentworth

1st Reading

June 5th, 1980

2nd Reading

June 18th, 1980

3rd Reading

June 19th, 1980

THE HON. R. WELCH
Minister of Energy

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act respecting the Use of Expression "Queen's Park"

MR. BREITHAUP

EXPLANATORY NOTE

The purpose of the Bill is to prohibit the use of the term "Queen's Park" for commercial purposes.

BILL 94

1980

An Act respecting the Use of Expression "Queen's Park"

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. No person shall use the words "Queen's Park" in combination, Use of expression "Queen's Park"

- (a) to describe or designate a property, place, site or location in The Municipality of Metropolitan Toronto other than the area of ground bounded by Queen's Park Crescent in the City of Toronto;
- (b) to identify any goods, merchandise, wares or articles for commercial use or sale; or
- (c) in association with a commercial establishment providing services.

2.—(1) Every person who contravenes section 1 and every director or officer of a corporation who knowingly concurs in a contravention of section 1 is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Offence

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporation

3. This Act comes into force on the day it receives Royal Assent. Commencement

4. The short title of this Act is *The Queen's Park Designation Act, 1980*. Short title

An Act respecting the Use of
Expression "Queen's Park"

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. BREITHAUPT

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to license and regulate Go-Cart Tracks

MR. DAVIDSON

EXPLANATORY NOTE

The purpose of the Bill is to provide for the regulation of go-cart tracks in Ontario. The Bill requires every person who proposes to operate a go-cart track in Ontario to obtain a licence from the Ministry of Consumer and Commercial Relations. The Bill provides regulation-making authority to the Lieutenant Governor in Council to establish safety standards relating to go-carts and the operation of go-cart tracks. The Bill further provides for the appointment of inspectors to ensure that go-cart track operators are complying with the Act and the regulations.

BILL 95 1980

An Act to license and regulate Go-Cart Tracks

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Director" means an employee of the Ministry appointed by the Minister as the Director for the purposes of this Act;
- (b) "Minister" means the Minister of Consumer and Commercial Relations;
- (c) "Ministry" means the Ministry of Consumer and Commercial Relations;
- (d) "Tribunal" means The Commercial Registration Appeal Tribunal established under *The Ministry of Consumer and Commercial Relations Act*.

R.S.O. 1970,
c. 113

2.—(1) No person shall operate a go-cart track except under the authority of a licence issued by the Director and the Director may issue a licence upon such terms and subject to such conditions as are specified in the licence or the regulations.

Licence
required

(2) The Director may refuse to issue or to renew a licence for the operation of a go-cart track, or may suspend or revoke such licence where,

Where
licence may
be refused

- (a) the go-cart track or the operation thereof does not comply with this Act or the regulations; or
- (b) the holder of the licence has failed to comply with an order of an inspector or is in contravention of this Act or the regulations.

3.—(1) Where the Director proposes,

Notice of
proposal

- (a) to refuse to issue or to renew a licence; or
- (b) to suspend or revoke a licence,

under subsection 2 of section 2, he shall serve notice of his proposal, together with written reasons therefor, on the applicant or licence holder, as the case may be.

Notice
requiring
hearing

(2) A notice under subsection 1 shall inform the applicant or licence holder that he is entitled to a hearing by the Tribunal if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Tribunal, and he may so require such a hearing.

Powers of
Director
where no
hearing

(3) Where an applicant or licence holder does not require a hearing by the Tribunal in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of
Tribunal
where
hearing

(4) Where an applicant or licence holder requires a hearing by the Tribunal in accordance with subsection 2, the Tribunal shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Tribunal considers the Director ought to take in accordance with this Act and the regulations, and for such purposes the Tribunal may substitute its opinion for that of the Director.

Conditions
of order

(5) The Tribunal may attach such terms and conditions to its order as it considers proper to give effect to the purposes of this Act.

Parties

(6) The Director, the applicant or licence holder who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Voluntary
cancellation

(7) Notwithstanding subsection 1, the Director may cancel a registration upon the request in writing of the registrant in the prescribed form surrendering his registration.

Parties

4.—(1) The Director, the applicant or licence holder who has required the hearing and such other persons as are specified by the Tribunal are parties to proceedings before the Tribunal under this Act.

Notice of
hearing

(2) Notice of a hearing under section 3 shall afford the applicant or licence holder a reasonable opportunity to show or to achieve

compliance before the hearing with all lawful requirements for the issue or retention of the licence.

(3) An applicant or licence holder who is a party to proceedings under section 3 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination
of docu-
mentary
evidence

(4) Members of the Tribunal holding a hearing shall not have taken part in any investigation or consideration of the subject-matter of the hearing before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Members
holding
hearing
not to have
taken part in
investigation,
etc.

(5) The oral evidence taken before the Tribunal at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Recording
of evidence

(6) The findings of fact of the Tribunal pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Findings
of fact
1971, c. 47

(7) No member of the Tribunal shall participate in a decision of the Tribunal pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Tribunal shall be given unless all members so present participate in the decision.

Only
members at
hearing to
participate
in decision

5.—(1) Notwithstanding section 3, the Director may make a decision under subsection 1 of section 3 to take effect immediately where, in his opinion, to do so is necessary for the protection of the public and, subject to subsections 3 and 4, the order takes effect immediately.

Order for
immediate
compliance

(2) Where the Director makes a decision under subsection 1, he shall serve each person named in the decision with a copy of the decision together with written reasons therefor and a notice containing the information required to be in a notice referred to in subsections 1 and 2 of section 3.

Notice of
order

(3) Where a person named in the decision requires a hearing by the Tribunal in accordance with the notice under subsection 2, the

Hearing

Tribunal shall appoint a time for and hold the hearing and may confirm or set aside the decision or exercise such other powers as may be exercised in a proceeding under section 3.

Expiration
of order

(4) Where a hearing by the Tribunal is required, the decision expires fifteen days after the giving of the notice requiring the hearing but, where the hearing is commenced before the expiration of the decision, the Tribunal may extend the time of expiration until the hearing is concluded.

Parties

(5) The Director and the person who has required the hearing and such other persons having a direct interest in the order as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Stay
R.S.O. 1970,
c. 113

6. Notwithstanding that, under section 9b of *The Ministry of Consumer and Commercial Relations Act*, an appeal is taken from a decision of the Tribunal made under section 3 or 5, the decision takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Appointment
of inspectors

7.—(1) The Minister may appoint inspectors for the purposes of this Act and the regulations and such appointments shall be in writing.

Powers of
inspectors

(2) An inspector, upon the production of his appointment under subsection 1, may enter on the premises of a go-cart track or other business premises of a go-cart track operator for the purpose of determining that the operator is complying with this Act and the regulations.

Reporting
accidents

8.—(1) Where an accident occurs on a go-cart track that results in the death of or serious injury to any person, the operator of the track shall notify the Director by telephone forthwith.

Idem

(2) Where an accident occurs that causes injury to any person or where there has been an incident that indicates that the go-cart track is in a potentially hazardous condition, the operator of the go-cart track shall notify the Director by telephone within twenty-four hours and shall submit a written report giving full particulars within seven days thereafter.

Investigation

(3) On being notified of an accident or incident in accordance with this section, the Director shall cause such investigation to be made as he considers necessary.

Offences

9.—(1) Every person who,

(a) contravenes any provision of this Act or the regulations;

- (b) knowingly makes a false statement in any document required by this Act or the regulations;
- (c) contravenes any term or condition of a licence;
- (d) contravenes an order or requirement of an inspector,

and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of one year, or to both.

(2) Where a corporation is convicted of an offence under sub-section 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein: Corporations

(3) Any person who prevents or obstructs or attempts to prevent or obstruct an inspector from entering premises or making an inspection authorized by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$2,000. Obstruction

10. The Lieutenant Governor in Council may make regulations, Regulations

- (a) establishing safety standards for the operation of go-cart tracks in Ontario;
- (b) respecting the use of roll bars, lap belts and helmets by persons driving go-carts on go-cart tracks;
- (c) establishing a minimum age for persons driving go-carts on go-cart tracks;
- (d) respecting standards for the construction and maintenance of go-cart tracks;
- (e) establishing speed limits for go-cart vehicles and limiting the number of go-carts on the track at a given time;
- (f) requiring persons qualified in the use of first-aid to be in attendance during go-cart operations;
- (g) respecting inspections of go-cart tracks under this Act.

11. This Act comes into force on the day it receives Royal Assent. Commence-
ment

12. The short title of this Act is *The Go-Cart Track Regulation Act, 1980*. Short title

An Act to license and regulate
Go-Cart Tracks

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. DAVIDSON

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

Subsection 1 of section 36a, as it currently reads, is set out below, with the words to be deleted by the amendment underlined.

- (1) *Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that at the written request of an employee in the bargaining unit the employer shall deduct from the wages of the employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.*

The proposed amendment requires the inclusion in every collective agreement of a provision providing for the deduction of union dues by an employer from an employee's wages. The provision does not apply to the construction industry.

BILL 96

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 36a of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as enacted by the Statutes of Ontario, 1975, chapter 76, section 9, is repealed and the following substituted therefor:

(1) Except in the construction industry, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision that the employer shall deduct from the wages of each employee the amount of the regular union dues payable by members of the trade union and remit the amount to the trade union.

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to provide the Ontario Labour Relations Board with authority to settle the terms and conditions of a first collective agreement between a trade union and an employer where the dispute settlement procedures in the Act have not been effective. Each collective agreement settled by the Board shall be for a term of between one and two years in duration.

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

34e.—(1) Where the parties have engaged in bargaining with a view to concluding their first collective agreement and either party is of the opinion that the dispute settlement procedures of the Act have not been effective and are not likely to be effective in enabling the parties to conclude an agreement, the party may apply to the Board to settle the terms and conditions of the first collective agreement and, if the Board considers it advisable, the Board may settle the terms and conditions of the first collective agreement.

(2) The terms and conditions of a first collective agreement as determined by the Board shall be deemed to constitute the collective agreement between the parties and are binding upon them except to the extent that the parties agree in writing to vary any or all of those terms and conditions.

(3) The collective agreement settled by the Board under this section shall be for a term of from one to two years duration from the date the Board settles the terms and conditions of the collective agreement.

2. Subsection 1 of section 53 of the said Act is repealed and the following substituted therefor:

(1) Subject to subsection 3, where a trade union has not made a collective agreement within one year after its certification and the Minister has appointed a conciliation officer or a mediator under this Act or a party to collective

s. 34e,
enacted

First
collective
agreement

Terms and
conditions
binding

Duration of
agreement

s. 53 (1),
re-enacted

Application
for certi-
fication or
termination
after
conciliation

bargaining has requested the Board to settle the terms and conditions of a first collective agreement, no application for certification of a bargaining agent of, or for a declaration that a trade union no longer represents, the employees in the bargaining unit determined in the certificate shall be made until,

- (a) thirty days have elapsed after the Minister has released to the parties the report of a conciliation board or mediator; or
- (b) thirty days have elapsed after the Minister has released to the parties a notice that he does not consider it advisable to appoint a conciliation board; or
- (c) six months have elapsed after the Minister has released to the parties a notice of a report of the conciliation officer that the differences between the parties concerning the terms of a collective agreement have been settled; or
- (d) six months have elapsed after the Board has notified the parties of a refusal to settle the terms and conditions of a first collective agreement,

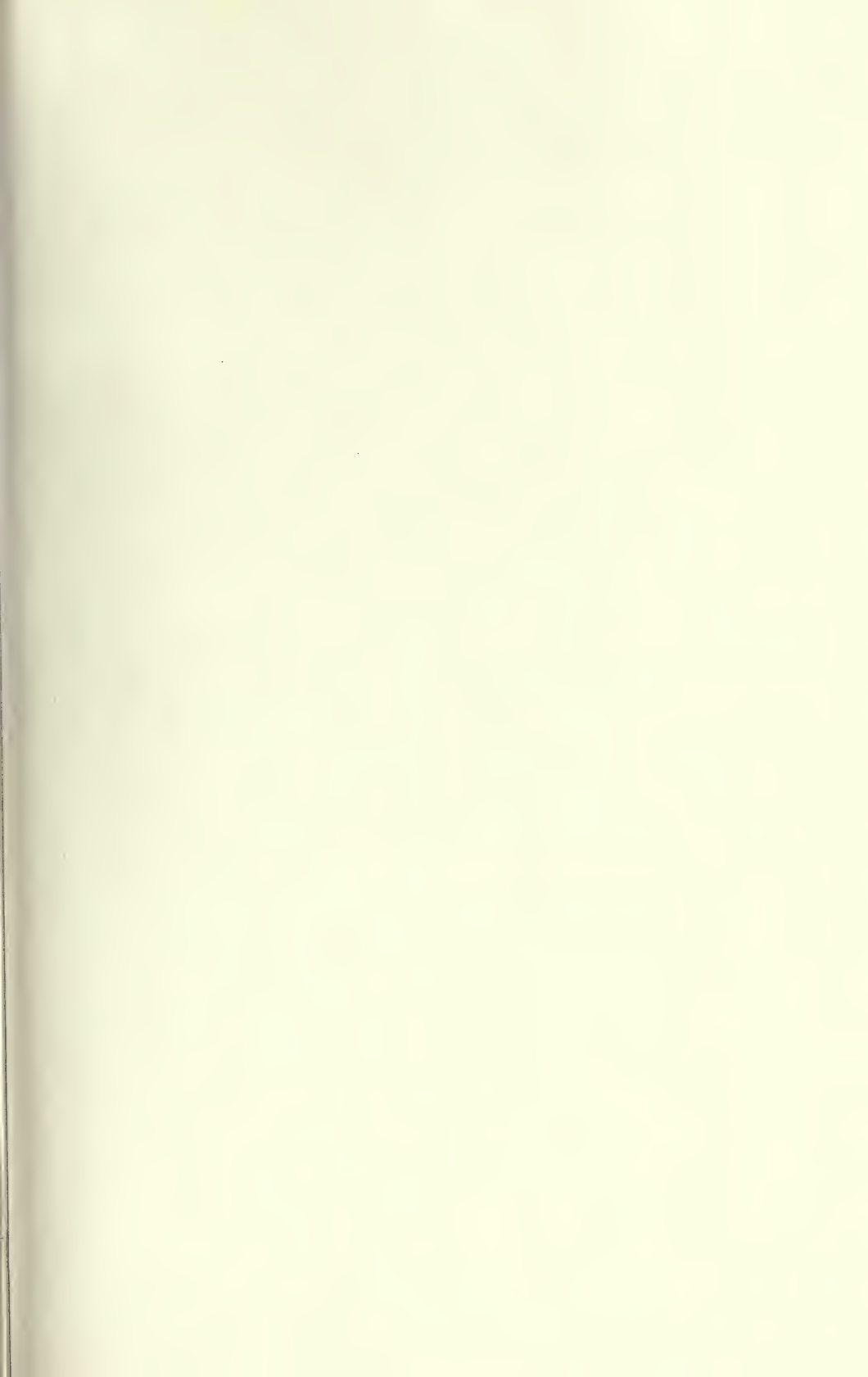
as the case may be.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Labour Relations Amendment Act, 1980*.



An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to reduce the percentage of employees in a bargaining unit required to be members of a trade union in order for the Board to direct a representation vote. The proposed amendment requires the Board to certify a trade union as a bargaining agent without a representation vote where the Board is satisfied that more than 50 per cent of the members of the bargaining unit are members of the trade union. A representation vote held under this section must be held within seven days of the day on which the Board directs the vote.

BILL 98

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 2 and 3 of section 7 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1975, chapter 76, section 4, are repealed and the following substituted therefor:
 - (2) If the Board is satisfied that not less than 35 per cent and not more than 50 per cent of the employees in the bargaining unit are members of the trade union, the Board shall direct that a representation vote be taken within seven days of the day on which the direction is made. s. 7 (2, 3),
re-enacted
 - (3) If on the taking of a representation vote more than 50 per cent of the ballots cast are in favour of the trade union, the Board shall certify the trade union as the bargaining agent of the employees in the bargaining unit. Determination
of members
in bargaining
unit
 - (4) If the Board is satisfied that more than 50 per cent of the employees in the bargaining unit are members of the trade union, the Board shall certify the trade union as bargaining agent without taking a representation vote. Certification
after vote
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Labour Relations Amendment Act*, 1980. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of this Bill is to prevent the hiring of strikebreakers and to control access to a work premises that is affected by a strike or lock-out. The Bill prohibits an employer from hiring or using the services of a person to do the work of an employee who is on strike or locked out unless that person is specifically authorized to do so. Similarly, when a picket line is established at a place of access to a work premises, access is limited to persons specifically authorized by the Bill.

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 59a,
enacted

59a.—(1) In this section,

Interpre-
tation

- (a) “employer” includes an employers’ organization and a person acting on behalf of an employer or an employers’ organization;
- (b) “legal picket line” means a moving formation of two or more persons who are members of a certified bargaining unit and who by means of signs or posters give notice that the certified bargaining unit is on strike or locked out.

(2) No employer shall employ or use the services of any person to perform the work of an employee who is exercising a legal right to strike or who is locked out unless, Unlawful
employment

- (a) the person ordinarily exercises managerial or supervisory functions and was a full-time employee of the employer on the day the strike or lock-out commenced; or
- (b) the person is authorized to perform the work by agreement between the employer and representatives of the certified bargaining unit that is on strike or locked out.

(3) Where a legal picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises, no person shall enter the premises unless, Unlawful
entry

- (a) the person ordinarily exercises managerial and supervisory functions;
- (b) the person is a member of a certified bargaining unit that is not on strike or locked out and is not engaged in performing the work of an employee who is on strike or locked out;
- (c) the person is a non-union employee who was a full-time employee of the employer on the day the strike or lock-out was commenced and is not engaged in performing the work of an employee who is on strike or locked out;
- (d) the person requires access to the work premises for the purpose of providing emergency services;
- (e) the person is authorized to enter the work premises by agreement between the employer and representatives of the bargaining unit that is on strike or locked out.

Duty of
police
officer

(4) Where a picket line is formed in support of a lawful strike or lock-out at a place of access to a work premises it is the duty of every police officer stationed at that place to ensure that no person other than a person authorized under subsection 3 enters the work premises.

Trespass

(5) A person who enters the work premises contrary to subsection 3 or who, upon gaining entry, performs work contrary to subsection 2, commits a trespass and is liable to proceedings under *The Petty Trespass Act*.

R.S.O. 1970,
c. 347 —

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Labour Relations Amendment Act, 1980*.

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to preserve the collective bargaining rights of employees of a business that is relocated. In addition to continuing pre-relocation bargaining rights and collective agreements in force after the relocation, the proposed amendment provides for a sixty day period from the date of the notice of relocation during which an employee can choose to continue his employment at the new location. Once the relocation has taken place, the Ontario Labour Relations Board has authority to determine whether a bargaining unit exists.

BILL 100

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 55 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by inserting after "section" in the first line "and section 55a". s. 55 (1),
amended

2. The said Act is amended by adding thereto the following section: s. 55a,
enacted

55a.—(1) Where an employer relocates his business, the employer is bound by determinations, agreements and proceedings made under this Act in respect of the business before the date of the relocation until the Board otherwise declares, and the determinations, agreements and proceedings shall continue in effect as if no change had occurred except that the description of the bargaining unit contained in the certificate or collective agreement is deemed to be amended to include the new location. Relocation
rights

(2) An employer shall provide reasonable notice to his employees of any decision to relocate his business and the employer shall permit an employee affected thereby sixty days from the date of the notice of relocation to accept employment at the new location. Continuation
of
employment

(3) Notwithstanding subsection 2, an employer is not required to continue the employment of an employee if the employer no longer requires work to be performed in the new location of the same nature as work performed by the employee in the former location and the employer no longer requires the skills possessed by the employee for any work performed at the new location. Exception

(4) Where a business has been relocated and a trade union or council of trade unions was the bargaining agent of any of the employees of the business in the former location or a trade union or council of trade unions is the bargaining agent of the employees of a similar business being carried on in the area of the new location, and, Remedial
power of
Board

- (a) any question arises concerning the application of this section; or
- (b) any person, trade union or council of trade unions claims that, by virtue of the operation of subsection 1, a conflict exists between the bargaining rights of the trade union or council of trade unions that was the bargaining agent of the employees of the business in the former location and a trade union or council of trade unions that represents employees of a similar business being carried on in the area of the new location,

the Board may, upon the application of any person, trade union or council of trade unions concerned,

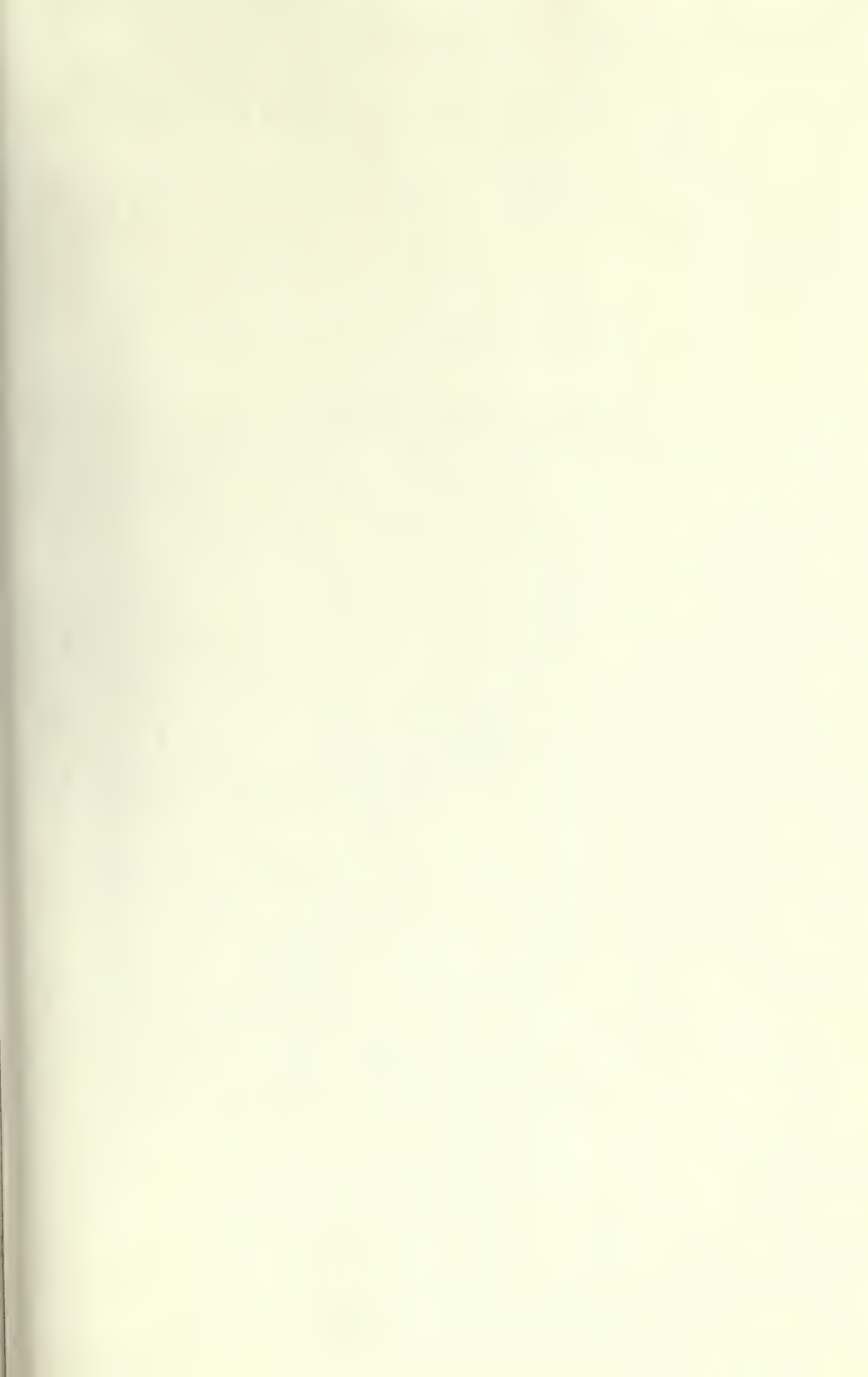
- (c) define the composition of the bargaining unit for the business in the new location and certify a trade union or council of trade unions as the bargaining agent of employees in the bargaining unit; and
- (d) amend, to such extent as the Board considers necessary, any bargaining unit in any certificate issued to a trade union or council of trade unions before the relocation or any bargaining unit defined in any collective agreement concluded before the relocation.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Labour Relations Amendment Act, 1980*.



1. The first part of the paper is devoted to a general discussion of the problem of the existence of solutions of the system of equations

which is satisfied by the functions $u_i(x, y, z)$ and $v_i(x, y, z)$ in the domain D of the space E_3 . It is shown that the system of equations is solvable in the domain D if and only if the functions $f_i(x, y, z)$ and $g_i(x, y, z)$ satisfy certain conditions. These conditions are expressed in terms of the integrals of the functions f_i and g_i over the domain D .

2. In the second part of the paper the problem of the existence of solutions of the system of equations is solved for the case when the domain D is a bounded domain of the space E_3 .

It is shown that the system of equations is solvable in the domain D if and only if the functions $f_i(x, y, z)$ and $g_i(x, y, z)$ satisfy certain conditions. These conditions are expressed in terms of the integrals of the functions f_i and g_i over the domain D .

3. In the third part of the paper the problem of the existence of solutions of the system of equations is solved for the case when the domain D is an unbounded domain of the space E_3 .

It is shown that the system of equations is solvable in the domain D if and only if the functions $f_i(x, y, z)$ and $g_i(x, y, z)$ satisfy certain conditions. These conditions are expressed in terms of the integrals of the functions f_i and g_i over the domain D .

4. In the fourth part of the paper the problem of the existence of solutions of the system of equations is solved for the case when the domain D is a domain of the space E_3 with a boundary of the type

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to amend
The Crown Employees Collective Bargaining Act, 1972**

MR. MACKENZIE

EXPLANATORY NOTES

The purpose of the Bill is to repeal certain provisions of *The Crown Employees Collective Bargaining Act, 1972* that restrict the composition of collective agreements negotiated under the Act.

SECTION 1. Section 13, as it now reads, is set out below:

- 13. No collective agreement or decision of a board shall contain any term which would require either directly or indirectly for its implementation the enactment or amendment of legislation except for the purpose of appropriating moneys for its implementation.*

SECTION 2. Subsection 3 of section 15, as it now reads, is set out below:

- (3) No collective agreement shall contain a provision which would require, as a condition of employment, membership in the employee organization.*

SECTION 3. Subsection 1 of section 17, as it now reads, is set out below:

- (1) Every collective agreement shall be deemed to provide that it is the exclusive function of the employer to manage, which function, without limiting the generality of the foregoing, includes the right to determine,*

(a) employment, appointment, complement, organization, assignment, discipline, dismissal, suspension, work methods and procedures, kinds and locations of equipment and classification of positions; and

(b) merit system, training and development, appraisal and superannuation, the governing principles of which are subject to review by the employer with the bargaining agent,

and such matters will not be the subject of collective bargaining nor come within the jurisdiction of a board.

BILL 101

1980

An Act to amend The Crown Employees Collective Bargaining Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 13 of *The Crown Employees Collective Bargaining Act*, s. 13,
1972, being chapter 67, is repealed. repealed
2. Subsection 3 of section 15 of the said Act is repealed. s. 15 (3),
repealed.
3. Subsection 1 of section 17 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 135, section 9, is s. 17 (1),
repealed
repealed.
4. This Act comes into force on the day it receives Royal Assent. Commence-
ment
5. The short title of this Act is '*The Crown Employees Collective Bargaining Amendment Act, 1980*'. Short title

An Act to amend
The Crown Employees Collective
Bargaining Act, 1972

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to declare the Application of certain Parts of
The Employment Standards Act, 1974**

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of Parts IV, V, VI, VII and VIII of *The Employment Standards Act, 1974* to domestic servants. These Parts are concerned with employment standards relating to hours of work, minimum wages, overtime pay, public holidays and vacations with pay. Clause *f* of section 3 of Ontario Regulation 803/75 currently prevents these Parts of the Act from applying to domestic servants.

BILL 102

1980

An Act to declare the Application of certain Parts of The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Notwithstanding clause *f* of section 3 of Ontario Regulation 803/75, it is hereby declared that Parts IV, V, VI, VII and VIII of *The Employment Standards Act, 1974* apply to a person who is employed as a domestic servant. Declaration re O. Reg. 803/75, s. 3 (f) 1974, c. 112

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is *The Employment Standards Declaratory Act, 1980*. Short title

An Act to declare the Application of
certain Parts of The Employment
Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to clarify that *The Labour Relations Act* applies to employees who are engaged in agricultural employment in an industrial or factory setting. Section 2 (b) of the Act currently states that the Act does not apply "to a person employed in agriculture". This provision has been interpreted broadly by the Ontario Labour Relations Board to exclude from the Act persons whose employment relates to agriculture but who are employed in organizations that resemble industrial plants.

BILL 103

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of section 2 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(*b*) to a person employed in agriculture on a farm by a person who is a farmer;

(*ba*) to a person employed in hunting or trapping.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Labour Relations Amendment Act, 1980*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to provide for the Employment of
Disabled Persons**

MR. MACKENZIE

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to provide employment opportunities for disabled persons. The Bill requires that employers hire disabled persons to constitute at least 3 per cent of the employer's work force. The Bill permits the Minister to vary this percentage requirement in cases where the Minister considers another quota to be more suitable. In addition, the Minister may exempt an employer or class of employers from the operation of the statute. The Bill establishes a register of employable disabled persons to be maintained by the Ministry for the purpose of facilitating efforts by employers to meet the quota established by this Bill.

BILL 104

1980

An Act to provide for the Employment of Disabled Persons

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "disabled person" means any person suffering from a serious and prolonged physical disability;
- (b) "Minister" means the Minister of Labour;
- (c) "Ministry" means the Ministry of Labour;
- (d) "register" means the register of disabled persons established under section 4.

2.—(1) Every employer shall ensure that at any point in time the number of disabled persons who are employees of the employer is at least 3 per cent of the total number of employees of the employer.

Employment
of disabled
persons

(2) Notwithstanding subsection 1, the Minister may, by order, establish a quota for an employer or class of employers that is greater or less than the quota established under subsection 1 where the Minister is of the opinion that the quota established under subsection 1 is not suitable to that employer or class of employers.

Minister
may set
quota

3.—(1) No employer shall hire any person other than a disabled person if the number of disabled persons employed by the employer is less than the employer's quota established under section 2.

Prohibition

(2) Subsection 1 does not apply to an employer who hires a person,

Exception

- (a) as a result of an agreement to reinstate the person entered into before the day on which this Act comes into force;
- (b) in accordance with an order or permit issued by the Minister under section 5.

Register

4.—(1) The Ministry shall establish and maintain a register of disabled persons for the purpose of facilitating the hiring by employers of disabled persons and the register shall record the name, address, qualifications, skills and the nature of the disability of each person registered therein.

Disabled person entitled to be registered

(2) Upon application, a person is entitled to be registered by the Ministry as a disabled person for the purposes of this Act if,

- (a) the person suffers from a physical disability that harms the person's prospects in obtaining employment; and
- (b) the person is capable of performing work in one or more work situations without causing danger to other employees.

Exemption order

5. Upon application, the Minister may, by order,

- (a) exempt an employer or class of employers from the operation of this Act;
- (b) permit an employer to hire one or more persons who are not disabled persons for purposes set forth in the order.

Offence

6.—(1) Every employer who contravenes this Act is guilty of an offence and on summary conviction is liable,

- (a) if an individual, to a fine of not more than \$1,000; or
- (b) if a corporation, to a fine of not more than \$10,000.

Opportunity to comply

(2) No prosecution against an employer shall be instituted under this Act unless the employer is notified of the intent to bring a prosecution and afforded a reasonable opportunity to show or achieve compliance with this Act.

Regulations

7. The Lieutenant Governor in Council may make regulations,

- (a) prescribing additional types of information to be recorded in respect of each disabled person registered in the register;
- (b) governing the types of information to be supplied to the Ministry by each disabled person registered in the register;
- (c) governing records to be kept and reports to be provided by each employer concerning the disabled persons employed by the employer.

8. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

9. The short title of this Act is *The Disabled Persons Employment Act, 1980*. Short title

An Act to provide for the
Employment of Disabled Persons

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of this Bill is to establish a standard relating to the installation and operation of electronic surveillance systems in places of employment. The Bill permits the installation of these systems only where it is reasonably necessary for the protection of the health or safety of employees. The onus of establishing that the installation and operation of a surveillance system is reasonably necessary for this purpose is placed upon the employer.

BILL 105

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is amended by adding thereto the following section. s. 15a,
enacted

15a. No employer shall install or operate an electronic surveillance device or system in a place of employment to record or monitor the work and other activities of his employees unless the installation and operation of such device or system is reasonably necessary, the proof of which lies upon the employer, for the protection of the health and safety of the employees. Electronic
surveillance

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The Short title of this Act is *The Employment Standards Amendment Act, 1980*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to provide
Political Rights for Public Servants**

MR. MACKENZIE

EXPLANATORY NOTE

This Bill is designed to give public servants the same political rights that all other citizens enjoy in Ontario. It covers civil servants, crown employees, employees of community colleges, and people working for agencies such as Ontario Hydro, the Workmen's Compensation Board, and the Ontario Northland Transportation Commission, but excludes Deputy Ministers, officers of similar status in Crown agencies, and other senior policy-making officials.

The deleted sections of *The Public Service Act* make it illegal for a public servant to canvass on behalf of a candidate in an election, to solicit funds for a political party or a candidate at any time, or to speak or to write a letter to the editor on "any matter that forms part of the platform of a provincial or federal political party". A public servant may only become a candidate for election after the writs are issued and is effectively barred from being a candidate if a nomination is held before that date. The candidate must take leave of absence without pay for a period of 4 to 5 weeks.

The Bill provides that public servants will be able to write, speak, contribute, solicit funds, work, join, hold office, and vote on behalf of, in, for, or to a political party or candidate in a federal or provincial election and protects public servants from punitive action by their superiors or from being forced to carry out partisan duties as a condition of their employment.

The deleted section of *The Crown Employees Collective Bargaining Act, 1972* contains the sections which are re-enacted in the Bill and also prohibits an employee organization from receiving money from public employees who are its members for activities carried on by, or on behalf of a political party, from paying out money to, or on behalf of, the political party, or from otherwise supporting a political party. The penalty for these activities is loss of bargaining rights. The Bill will give an employee organization the rights enjoyed by other trade unions, prevents it from compelling an employee to engage in political activity, and provides for a wider range of penalties.

BILL 106

1980

An Act to provide Political Rights for Public Servants

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

**Interpre-
tation**

- (a) "agency" means any board, agency, or commission of the Crown in right of Ontario;
- (b) "public servant" means a person appointed in the service of the Crown by the Lieutenant Governor in Council, by the Civil Service Commission, or by a Minister, or a person employed in the service of the Crown or any agency of the Crown, but does not include any Deputy Minister or senior employee of the Crown or an agency with management or policy responsibilities;
- (c) "Tribunal" means the Ontario Public Service Labour Relations Tribunal as defined in section 1 of *The Crown Employees Collective Bargaining Act*, 1972, c. 67 1972.

2.—(1) Every public servant shall be entitled to exercise the following political rights,

**Political
rights**

- (a) the right to vote;
- (b) the right to actively support a political party or a candidate for provincial or federal office;
- (c) the right to contribute to a political party at any time;
- (d) the right to solicit funds for a candidate or for a political party;

- (e) the right to be a member of a political party and to hold office in such party; and
- (f) the right to express views on matters that form part of the platform of a provincial or federal political party.

Idem

(2) The rights provided in subsection 1 are subject to the condition that,

- (a) the employee does not engage in political activities during working hours;
- (b) the employee does not associate his position in the service of the Crown with any political activity;
- (c) the employee does not speak in public or express views in writing for distribution to the public on any matter with which he is directly engaged in his employment with the Crown;
- (d) the employee respects his oath of office and secrecy, as provided under section 10 of *The Public Service Act*.

R.S.O. 1970,
c. 386

Partisan
work by
public
servants

3. No public servant shall be required by his employer to engage in work or activity of a partisan nature for a candidate or a political party either during or outside working hours and, notwithstanding the provisions of any other Act, refusal to perform such activities shall be a justifiable defence against any dismissal, transfer, or other disciplinary action.

Leave
of
absence

4. A public servant who proposes to become a candidate in a provincial or federal election shall inform his Minister or the chief officer of his agency, and,

- (a) may seek leave of absence without pay at any time after he is duly nominated by his party as its candidate; and
- (b) shall take leave of absence commencing on the day on which the writ for the election is issued or on the day on which he is nominated by his party, whichever date comes later; and
- (c) shall be granted leave with pay commencing on the day provided by statute for the nomination of candidates and ending on polling day,

and every such application shall be granted.

5. Where a public servant who is a candidate in a provincial or federal election is elected, he shall forthwith resign his position as a public servant. Resignation

6. Where a public servant who has resigned under section 5, Reappointment

(a) ceases to be an elected political representative within five years of his resignation; and

(b) applies for reappointment to his former position or to another position in the service of the Crown for which he is qualified, within three months of ceasing to be an elected political representative,

he shall be reappointed to the position upon its next becoming vacant.

7. Where a public servant has been granted leave of absence under section 4 and was not elected, or resigned his position under section 5 and was reappointed under section 6, the period of the leave of absence or resignation shall be computed in determining the length of his service for any purpose, and his service shall be deemed to be continuous for all purposes. Period of leave of absence

8. Every public servant who knowingly fails to comply with the requirements of this Act may be disciplined under the Act or regulation governing his employer. Disciplinary action

9.—(1) In this section, “employee organization” means an organization of employees formed for the purpose of regulating relations between the Crown in right of Ontario and public servants under this Act. Interpretation

(2) No employee organization shall discriminate against any employee because of age, sex, race, national origin, colour or religion. Prohibitions

(3) Where a public servant or the Crown in right of Ontario considers that an employee organization is in violation of section 9, a complaint may be lodged with the Tribunal, which shall conduct a public hearing to consider the matter and which may, Tribunal

(a) dismiss the complaint; or

(b) withdraw bargaining rights from the employee organization involved; or

(c) levy a fine; or

(d) take such other disciplinary action as it considers appropriate.

R.S.O. 1970,
c. 386, ss. 12-16,
repealed

10. Sections 12, 13, 14, 15 and 16 of *The Public Service Act*, being chapter 386 of the Revised Statutes of Ontario, 1970, are repealed.

1972, c. 67,
s. 1 (1) (h),
repealed

11. Clause *h* of subsection 1 of section 1 of *The Crown Employees Collective Bargaining Act, 1972*, being chapter 67 of the Statutes of Ontario, 1972, is repealed.

Short title

12. The short title of this Act is *The Public Servants Political Rights Act, 1980*.

An Act to provide
Political Rights for Public Servants

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE

EXPLANATORY NOTES

The purpose of the Bill is to reduce the standard work week from forty-eight hours to forty hours and to require employers to pay overtime rates for work done in excess of forty hours per week rather than forty-four hours.

The sections of the Act as amended by this Bill are set out below with the amended portions shown underlined.

SECTION 1. Subsection 2 of section 11, as amended, would read as follows:

- (2) *Subclause iii of clause a of subsection 1 does not apply in respect of the salaried employees of an employer who perform work of a clerical or administrative nature where the employer makes and keeps a record showing the number of hours worked by such employees in excess of eight hours a day and forty hours a week.*

SECTION 2. Section 17, as amended, would read as follows:

17. *Except as otherwise provided in this Part, and subject to any schedule in force under The Industrial Standards Act, the hours of work of an employee shall not exceed eight in the day and forty in the week.*

SECTION 3. Section 18, as amended, would read as follows:

18. *An employer may, with the approval of the Director, and upon such terms and conditions as the Director prescribes, adopt a regular day of work in excess of eight hours but not in excess of twelve hours, provided that the total hours of work of each employee shall not exceed forty hours in a week.*

SECTION 4. Subsection 3 of section 20, as amended, would read as follows:

- (3) *The issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed by section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of eight in the day or forty in the week.*

SECTION 5. Subsection 1 of section 25, as amended, would read as follows:

- (1) *Except as otherwise provided in the regulations, where an employee works for an employer in excess of forty hours in any week, he shall be paid for each hour worked in excess of forty hours overtime pay at an amount not less than one and one-half times the regular rate of the employee.*

BILL 107

1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 11 of *The Employment Standards Act, 1974*, being chapter 112, is amended by striking out "forty-four" in the sixth line and inserting in lieu thereof "forty". s. 11 (2),
amended
2. Section 17 of the said Act is amended by striking out "forty-eight" in the fourth line and inserting in lieu thereof "forty". s. 17,
amended
3. Section 18 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 18,
amended
4. Subsection 3 of section 20 of the said Act is amended by striking out "forty-eight" in the fifth line and inserting in lieu thereof "forty". s. 20 (3),
amended
5. Subsection 1 of section 25 of the said Act is amended by striking out "forty-four" in the third line and in the fourth line and inserting in lieu thereof in each instance "forty". s. 25 (1),
amended
6. This Act comes into force on the day it receives Royal Assent. Commence-
ment
7. The short title of this Act is *The Employment Standards Amendment Act, 1980*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE

EXPLANATORY NOTES

SECTION 1. The proposed new section 29 increases the vacation period to which an employee is entitled under the Act. Currently, the Act provides a two week vacation period for each employee that does not vary with the amount of employment service.

SECTION 2. The proposed amendment is complementary to section 1 of the Bill. Subsection 1 of section 30 of the Act as it currently reads is set out below with the amended portions underlined.

- (1) *The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a two week period or two periods of one week each, but in any case the employee shall be given his vacation not later than ten months after the end of the twelve month period for which the vacation was given.*

SECTION 3. The proposed amendment is complementary to section 1 of the Bill. Section 31 of the Act as it currently reads is set out below with the amended portions underlined.

31. *Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 4 per cent of the wages of the employee in any twelve month period or periods or part thereof and in calculating wages no account shall be taken of any vacation pay previously paid.*

BILL 108 *Act to amend the Employment Standards Act, 1974* 1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 29 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: s. 29, re-enacted

29.—(1) Every employer shall give to each employee a vacation Vacations with pay of at least,

- (a) two weeks in each year upon the completion of twelve months of employment;
- (b) three weeks in each year upon the completion of sixty months of employment; and
- (c) four weeks in each year upon the completion of 120 months of employment.

(2) The amount of pay for a vacation shall be not less than an idem amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under subsection 1 and in calculating wages no account shall be taken of any vacation pay previously paid.

2. Subsection 1 of section 30 of the said Act is repealed and the following substituted therefor: s. 30 (1), re-enacted

(1) The employer shall determine the period when an employee may take the vacation to which he is entitled under section 29, which may be a consecutive period or periods of one week each, but in any case the employee shall be given his vacation not later than six months after the end of the twelve month period for which the vacation was given. When vacation to be taken

3. Section 31 of the said Act is repealed and the following substituted therefor: s. 31, re-enacted

Vacation
pay

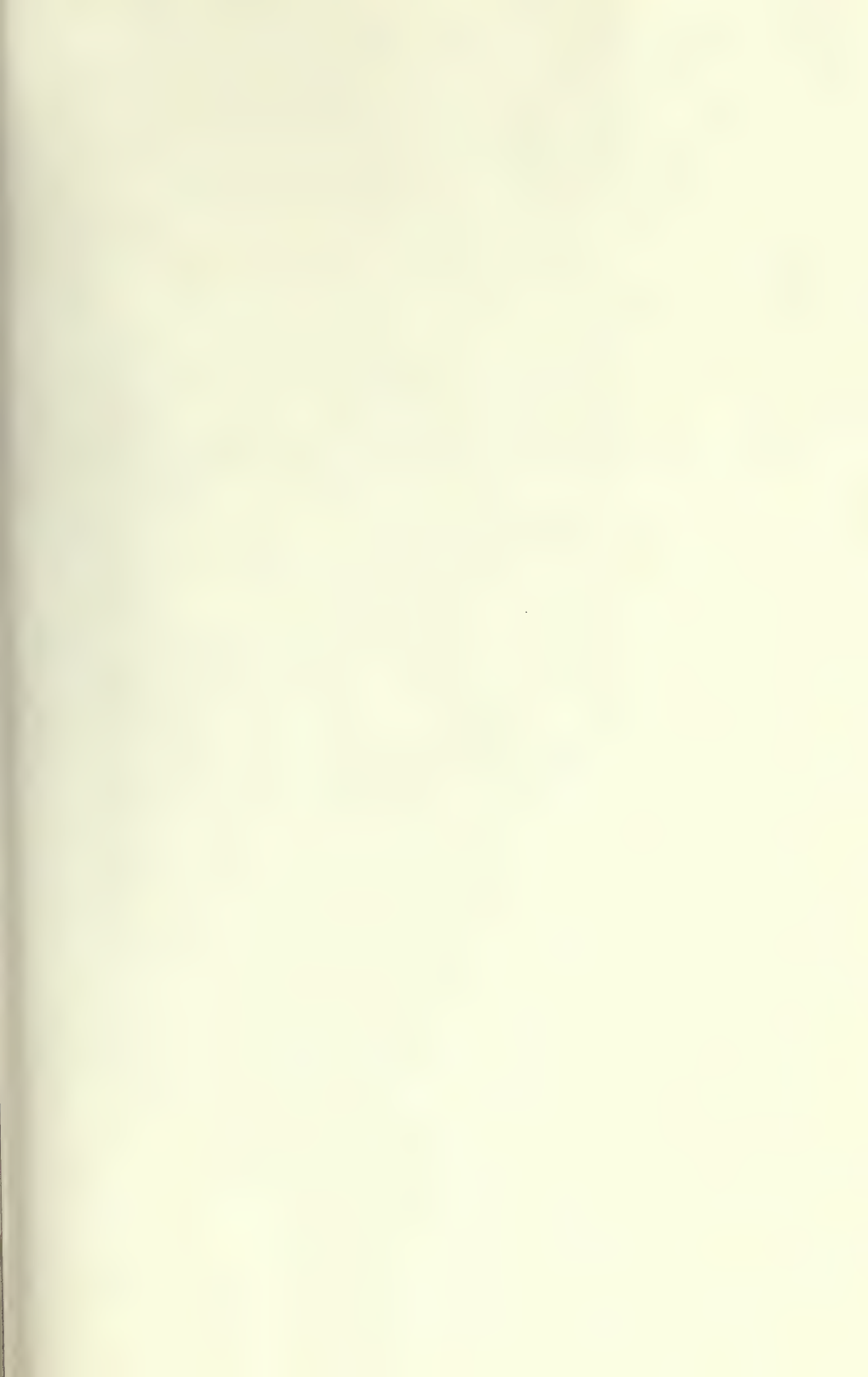
31. Where the employment of an employee ceases before the completion of a twelve month period of employment or the employee has not been given a vacation with pay pursuant to section 29, the employer shall pay to the employee an amount equal to 2 per cent of the annual wages of the employee for each week of vacation to which the employee is entitled under section 29, and in calculating wages no account shall be taken of any vacation pay previously paid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is *The Employment Standards Amendment Act, 1980*.



An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE

EXPLANATORY NOTE

1274 The purpose of the Bill is to extend the time for giving notice where the employment of an employee is about to be terminated. Where fifty or more employees are to be affected by a termination, a notice period of twenty-six weeks is required. The notice periods also apply in cases of extended lay-offs.

BILL 109

1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsections 1 and 2 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, are repealed and the following substituted therefor: s. 40 (1, 2),
re-enacted

(1) In this Part, an employer shall be deemed to have terminated the employment of an employee when the employee has been laid off from his employment for a period of more than thirteen weeks in any period of more than twenty weeks. Lay-off
deemed
to be
termination

(1a) No employer shall terminate the employment of an employee who has been employed for three months or more unless he gives, Notice of
termination

- (a) four weeks notice in writing to the employee if his period of employment is less than two years;
- (b) eight weeks notice in writing to the employee if his period of employment is two years or more but less than five years;
- (c) sixteen weeks notice in writing to the employee if his period of employment is five years or more but less than ten years; and
- (d) twenty-six weeks notice in writing to the employee if his period of employment is ten years or more.

(2) Notwithstanding subsection 1, no employer shall terminate the employment of fifty or more employees in any period of four weeks or less unless he gives twenty-six weeks notice in writing to each employee and such notice has expired. Idem

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Employment Standards Amendment Act, 1980*.

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to ensure that no employee engaged in the preparation or service of food in a tavern, restaurant, hotel, motel or tourist resort be required, as a term or condition of employment, to work while nude or partially nude.

BILL 110

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is amended by adding thereto the following section: s. 15a,
enacted

15a.—(1) No employer shall require as a term or condition of employment that a person engaged in the preparation or service of food or drink in a tavern, restaurant, hotel, motel or tourist resort be nude or partially nude while so engaged. No employer
to require
nudity

(2) In subsection 1, a person is partially nude when the person is dressed in such a manner that one or more parts of the body that are usually clothed in public are visibly exposed to public view. Interpre-
tation

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Employment Standards Amendment Act, 1980*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to delete the exclusion from "employee" of persons who exercise managerial functions. The effect of the amendment is to permit these persons to join or establish an association or union for collective bargaining purposes.

BILL 111

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *b* of subsection 3 of section 1 of *The Labour Relations Act*,<sup>s. 1 (3) (b),
re-enacted</sup> being chapter 232 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

(b) who, in the opinion of the Board, is employed in a confidential capacity in matters relating to labour relations.
2. This Act comes into force on the day it receives Royal Assent.<sup>Commence-
ment</sup>
3. The short title of this Act is *The Labour Relations Amendment Act*,^{Short title} 1980.

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of the whole Act to the Crown. Currently, Parts IX, X, XI and XII of the Act apply to the Crown.

BILL 112

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

- 1.** Subsection 1 of section 2 of *The Employment Standards Act, 1974*, s. 2 (1),
being chapter 112, is repealed and the following substituted there-
for: re-enacted

(1) This Act applies to the Crown, every agency thereof and any Application
board, commission, authority or corporation that exercises any of Act
functions assigned or delegated to it by the Crown.

- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is *The Employment Standards Amendment* Short title
Act, 1980.

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to clarify the status of an employer before the Ontario Labour Relations Board on an application for certification by a trade union. The employer is permitted to present evidence and make submissions concerning several matters listed in the Bill. The employer is not permitted to present evidence or make submissions related to any other matter.

BILL 113

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section: s. 9a.
enacted

9a. Upon an application for certification, an employer or employers' organization may present evidence and make submissions to the Board with respect to, Employers' evidence in certification proceeding

- (a) the jurisdiction of the Board;
- (b) the appropriateness of the bargaining unit;
- (c) the status of employees of the employer, including whether or not a person is an employee, a dependant contractor or a security guard; and
- (d) the conduct of the employer, where another party made an allegation concerning the conduct of the employer,

but the Board shall not receive evidence or hear submissions from the employer or employers' organization with respect to any other matter.

2. Subsection 12 of section 91 of the said Act is amended by inserting after "but" in the second line "subject to section 9a". s. 91 (12),
amended
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Labour Relations Amendment Act, 1980*. Short title

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to require an employer to provide a leave of absence to any employee who has been elected to provincial or municipal office so that the employee may be able to carry out the duties of an elected official.

BILL 114 1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is amended by adding thereto the following Part: Part XI-A
(ss. 39a-39d),
enacted

PART XI-A

ELECTED OFFICIAL LEAVE

39a. No employer shall terminate the employment of or lay-off an employee who is entitled to a leave of absence under this Part by reason of that employee being an elected official. Elected
official
leave

39b.—(1) An employee who has been elected to the Legislative Assembly or to a municipal public office and who has been employed by the employer for a period of three months preceding the date of the election shall be entitled upon application therefor to a leave of absence for the purpose of carrying out his duties as an elected official. When leave
to be taken

(2) A leave of absence under this Part may be for a continuous period consisting of the whole or a part of the term of office to which the person was elected or for such intermittent periods of time during the day or week as the employee may feel is necessary to fulfil his duties as an elected official. Duration
of leave

(3) Where a leave of absence is for a continuous period, the employee shall give the employer two weeks notice in writing of the day upon which the employee intends to commence the leave and shall set out in this notice the estimated duration of the leave. Notice

Idem

(4) Where a leave of absence is for intermittent periods, the employee shall give to the employer notice in writing prior to commencing the leave of regular periods of time during the day or week that the employee intends to be on leave, but the employee is entitled to a leave of absence at other times where such leave is necessary for the employee to fulfil his duties as an elected official.

Preservation
of seniority

39c.—(1) An employee who intends to resume full-time employment upon ceasing to be an elected official shall so advise the employer, and, upon returning to work, the employer shall reinstate or continue the employee in his position or provide alternative work of a comparable nature at not less than the wages of the employee at the time the leave of absence began and without loss of seniority or benefits accrued to the expiration of the term of office other than seniority or benefits accrued during the times that the employee was on leave.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence of the employee and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection 1.

Employment
standards
officer
may make
order

39d. Where an employer fails to comply with the provisions of this Part, an employment standards officer may order what action, if any, the employer shall take or what he shall refrain from doing in order to constitute compliance with this Part and may order what compensation shall be paid by the employer to the Director, in trust, for the employee.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Employment Standards Amendment Act, 1980*.

An Act to amend
The Employment Standards
Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Employment Standards Act, 1974

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to protect the employment of an employee who attempts to enforce the provisions of this or any other Act or who testifies or otherwise participates in a proceeding or hearing under this or any other Act or before a court of law.

BILL 115

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Employment Standards Act, 1974*, being chapter 112, is ^{s. 9a,} amended by adding thereto the following section: ^{enacted}

9a. No employer shall,

No discipline,
dismissal, etc.,
by employer

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee,

- (e) has sought the enforcement of this or any other Act or regulations made thereunder;
- (f) has given information to an employment standards officer;
- (g) has participated in or is about to participate in a proceeding or hearing under this or any other Act or before a court of law;
- (h) testifies or is about to testify in a proceeding or hearing under this or any other Act or before a court of law.

- 2.—(1) Subsection 1 of section 57 of the said Act is repealed.

s. 57 (1),
repealed

s. 57 (2),
amended

- (2) Subsection 2 of the said section 57 is amended by striking out "subsection 1" in the second line and inserting in lieu thereof "section 9a".

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Employment Standards Amendment Act, 1980*.



An Act to amend
The Employment Standards
Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to amend
The Employment Standards Act, 1974**

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to extend the application of Part XII of *The Employment Standards Act, 1974* to employees who are employed for a definite term or task and to persons who are laid off or terminated during or as a result of a strike or lock-out at his place of employment.

BILL 116

1980

**An Act to amend
The Employment Standards Act, 1974**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of subsection 3 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, is repealed. s. 40 (3) (a).
repealed
2. Notwithstanding clause *d* of section 2 of Regulation 251 of Revised Regulations of Ontario, 1970, it is hereby declared that Part XII of *The Employment Standards Act, 1974* applies to a person who is laid off or terminated during or as a result of a strike or lock-out at his place of employment. Declaration re
R.R.O. 1970,
Reg. 251,
s. 2 (d)
3. This Act comes into force on the day it receives Royal Assent. Commence-
ment
4. The short title of this Act is *The Employment Standards Amendment Act, 1980*. Short title

An Act to amend
The Employment Standards Act, 1974

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Labour Relations Act

MR. MACKENZIE

EXPLANATORY NOTE

The purpose of the Bill is to repeal a provision of the Act that prohibits the inclusion of security guards in a bargaining unit. The repeal of this provision would permit security guards to join or establish an association or union for collective bargaining purposes.

BILL 117

1980

An Act to amend The Labour Relations Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 11 of *The Labour Relations Act*, being chapter 232 of the Revised Statutes of Ontario, 1970, is repealed. s. 11,
repealed
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Labour Relations Amendment Act*, Short title
1980.

An Act to amend
The Labour Relations Act

1st Reading

June 5th, 1980

2nd Reading

3rd Reading

MR. MACKENZIE

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act respecting
the Registered Insurance Brokers of Ontario**

**THE HON. FRANK DREA
Minister of Consumer and Commercial Relations**

EXPLANATORY NOTE

The Bill establishes the Registered Insurance Brokers of Ontario as a self-governing body composed of persons who act as insurance brokers in Ontario. The Bill continues the Registered Insurance Brokers of Ontario as a body corporate and provides the Corporation with certain powers in relation to the registration and discipline of insurance brokers. The Bill sets out procedures governing the manner in which the Corporation exercises its powers and establishes a procedure for dealing with complaints from the public concerning insurance brokers. The Bill provides for lay representation on the Council and committees of the Corporation. The Bill makes it an offence for a person to act as an insurance broker unless the person is registered as an insurance broker under the Act.

Part II of the Bill contains complementary amendments to *The Insurance Act*.

BILL 118

1980

An Act respecting the Registered Insurance Brokers of Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

REGISTERED INSURANCE BROKERS OF ONTARIO

1. In this Act,

Interpre-
tation

- (a) "applicant" means an individual, partnership or corporation that applies for registration under this Act;
- (b) "board of inquiry" means a board of inquiry appointed by the Council;
- (c) "certificate" means a certificate issued under this Act;
- (d) "Complaints Committee" means the Complaints Committee of the Council established under this Act;
- (e) "Council" means the Council of the Registered Insurance Brokers of Ontario;
- (f) "contract" has the same meaning as in *The Insurance Act* but does not include a contract of life insurance as defined in that Act; R.S.O. 1970,
c. 224
- (g) "Corporation" means the body corporate known as the Registered Insurance Brokers of Ontario;
- (h) "Discipline Committee" means the Discipline Committee of the Council established under this Act;
- (i) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a

nature and extent making it desirable in the interest of the public or the member that he no longer be permitted to carry on business as a registered insurance broker or that his business be restricted;

R.S.O. 1970,
c. 224

- (j) "insurance" has the same meaning as in *The Insurance Act* but does not include life insurance as defined in that Act;
- (k) "insurance agent" means an agent within the meaning of *The Insurance Act*;
- (l) "insurance broker" means any person who or which for any compensation, commission or other thing of value, with respect to persons or property in Ontario, deals directly with the public and,
 - (i) acts or aids in any manner in soliciting, negotiating or procuring the making of any contract of insurance or reinsurance whether or not he has agreements with insurers allowing him to bind coverage and countersign insurance documents on behalf of insurers, or
 - (ii) provides risk management services including claims assistance where required, or
 - (iii) provides consulting or advisory services with respect to insurance or reinsurance, or
 - (iv) holds himself out as an insurance consultant or examines, appraises, reviews or evaluates any insurance policy, plan or program or makes recommendations or gives advice with regard to any of the above;
- (m) "Manager" means the Manager of the Registered Insurance Brokers of Ontario;
- (n) "member" means an individual, partnership or corporation registered under this Act to carry on business as an insurance broker;
- (o) "Minister" means the Minister of Consumer and Commercial Relations;
- (p) "misconduct" means misconduct as defined in the regulations;
- (q) "person" includes a partnership and an unincorporated association;

- (r) “public” means persons other than insurers, insurance brokers, insurance adjusters and insurance agents;
- (s) “Qualification and Registration Committee” means the Qualification and Registration Committee of the Council established under this Act;
- (t) “registered insurance broker” means a person registered under this Act to carry on business as an insurance broker;
- (u) “Superintendent” means the Superintendent of Insurance.

2.—(1) No person shall act as an insurance broker unless the person is a registered insurance broker under this Act. Prohibition

(2) Subsection 1 does not apply to, Exceptions

- (a) lawyers, accountants, or actuaries acting in their professional capacity;
- (b) an insurance agent licensed under *The Insurance Act*, while acting within the authority of his licence; R.S.O. 1970,
c. 224
- (c) an insurance adjuster licensed under *The Insurance Act*, while acting within the authority of his licence;
- (d) any individual, partnership or corporation who acts solely as a reinsurance broker;
- (e) a person registered under *The Travel Industry Act, 1974* acting in respect of travel accident and sickness, baggage or trip cancellation insurance; 1974, c. 115
- (f) an employee of a person registered under this Act when the employee is acting for or on behalf of his employer engaged solely in the performance of clerical or administrative duties in the office of his employer;
- (g) any regular salaried employee of an insured or of a subsidiary or affiliate or corporate insured whose duties in whole or in part are to negotiate for or procure insurance or render other services on behalf of such employer or employers in connection with the procuring or maintaining of insurance on the property or risks of such employer or employers if the employee does not receive compensation, commission or other thing of value from any insurance agent, broker, or insurer for, or in connection with such services;

(h) a trustee appointed under this Act;

(i) an insurer or a subsidiary or an affiliate of an insurer or any employee, officer or director thereof if he is not acting in any manner in soliciting, negotiating or procuring the making of any contract of insurance;

(j) such other persons as are exempted by the regulations.

Prohibition

3.—(1) No person shall hold himself or itself out as an insurance broker or as the holder of a certificate under this Act unless the person is the holder of a certificate under this Act.

Use of title

(2) No person shall use the title “registered insurance broker” or the designation “R.I.B. (Ont.)” or other designation representing or similar to the title unless the person is the holder of a certificate as a registered insurance broker under this Act.

Corporation continued

4.—(1) The Registered Insurance Brokers of Ontario is continued as a body corporate without share capital with power to acquire, hold, dispose of and otherwise deal with real and personal property for the purposes of this Act.

Objects

(2) The Corporation shall have the general purpose of carrying out the powers and duties conferred on it by this Act.

Membership

5.—(1) Every person who is registered by the Corporation is a member of the Corporation.

Resignation of membership

(2) An individual member may resign his membership by filing with the Manager his resignation in writing and his registration is thereupon cancelled subject to the continuing jurisdiction of the Corporation in respect of any disciplinary action arising out of his conduct while a member.

Cancellation for default of fees

(3) The Manager may cancel a registration for non-payment of any prescribed fee after giving the member at least one month notice of the default and intention to cancel the registration subject to the continuing jurisdiction of the Corporation.

Council

6.—(1) The Council shall be the governing body and board of directors of the Corporation and shall manage and administer its affairs.

Composition

(2) Subject to the regulations, the Council shall be composed of,

(a) eight persons who are individual members of the Corporation and are elected by the members in the manner provided by the regulations;

- (b) three persons who are not members of the Corporation and are appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may, by regulation, vary the size of the Council but at least one-quarter of the members of the Council shall be persons appointed by the Lieutenant Governor in Council who are not members of the Corporation. Increased
size of
Council

(4) Notwithstanding clause *a* of subsection 2, when this Act comes into force, the Lieutenant Governor in Council shall appoint to the Council the eight persons who are individual members of the Corporation for a term of three years, in the case of four of the appointees, and five years, in the case of four of the appointees. Transition

(5) The appointment of every person appointed under clause *b* of subsection 2 shall be for a term not exceeding four years and a person whose appointment expires is eligible for one reappointment. Appointment

7. Every individual member who is, Qualif-
ications
to vote

(a) registered under this Act; and

(b) not in default of payment of any prescribed fee,

is qualified to vote at an election of members of the Council.

8.—(1) The Council shall elect annually a President and one or more Vice-Presidents from among its members. President
and Vice-
President

(2) The Council shall appoint during pleasure a Manager and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the Corporation. Manager
and
officers

(3) A majority of the members of the Council, including at least one member who is not a member of the Corporation, constitutes a quorum. Quorum

9. The Superintendent shall be deemed to have an interest in the Corporation, as the representative of all persons who may be served by registered insurance brokers, and the Corporation shall, within a reasonable time, furnish the Superintendent with such information and financial statements with respect to the Corporation as the Superintendent may require. Super-
intendent

10.—(1) The Corporation shall, within four months after the termination of each financial year, provide to its members, the Annual
report of
Corporation

Minister and the Superintendent an annual report relating to its activities in that year including,

- (a) financial statements of the Corporation and the auditor's report thereon;
- (b) a summary of the complaints received against members, categorized by source, type and disposition of the complaint;
- (c) a summary of disciplinary proceedings undertaken against members, categorized by source, type and disposition of the proceedings;
- (d) a summary of the applications for registration and the disposition of the applications;
- (e) membership statistics of the Corporation, categorized by size and type of member;
- (f) an identification of matters of policy currently under review by the Council and of any proposed changes in policies or programs; and
- (g) any other information considered relevant by the Corporation or requested by the Minister or Superintendent.

Annual
report of
Super-
intendent

(2) The Superintendent shall make an annual examination of the affairs of the Corporation and shall report concerning the examination to the Minister and the Minister shall then lay the annual report of the Corporation and the report of the Superintendent before the Assembly if it is in session and, if not, at the next ensuing session.

By-laws

11.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Corporation not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

- (a) prescribing the seal of the Corporation;
- (b) providing for the execution of documents by the Corporation;
- (c) fixing the financial year of the Corporation and providing for the audit of the accounts and transactions of the Corporation;
- (d) providing procedures for the election of President, Vice-Presidents and other officers of the Corporation, the

filling of a vacancy in those offices, and prescribing their duties;

- (e) respecting the calling, holding and conducting of meetings of the Council and the duties of members of the Council;
- (f) respecting the calling, holding and conducting of meetings of the membership of the Corporation;
- (g) prescribing the remuneration of the members of the Council and committees and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (h) providing for the appointment, composition, powers and duties of the committees of Council as may be required, including the filling of vacancies and the setting of quorums;
- (i) prescribing forms and providing for their use;
- (j) providing procedures for the making, amending and revoking of by-laws;
- (k) respecting management of the property of the Corporation;
- (l) fixing and providing for the payment of annual fees and special assessments by members and fees for certificates and examinations;
- (m) providing for the borrowing of money on the credit of the Corporation and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Corporation to secure any money borrowed or other debt or any other obligation or liability of the Corporation;
- (n) respecting the application of the funds of the Corporation and the investment and reinvestment of any of its funds not immediately required in any investments that are from time to time authorized investments for joint stock insurance companies and cash mutual insurance companies under *The Insurance Act*;
- (o) providing for classes of membership and setting for the designation of and the terms and conditions attaching to each class;

- (p) respecting the keeping of records by the Corporation, Council, committees and members;
- (q) respecting the duties and authority of the Manager;
- (r) respecting all other things that are considered necessary for the attainment of the objects of the Corporation and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

(a) shall be forwarded to the Superintendent; and

(b) shall be available for public inspection in the office of the Corporation.

Signed
by-laws
and
resolutions

(3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose.

Establish-
ment of
committees

12. The Council shall establish and appoint as hereinafter provided the following committees:

(a) a Qualification and Registration Committee;

(b) one or more Complaints Committees;

(c) a Discipline Committee,

and may establish such other or additional committees as the Council from time to time considers necessary.

Issuance
of
certificates
of
registration

13.—(1) The Manager shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Act and the regulations and has passed such examinations as the Council may set or approve and the Manager shall refer to the Qualification and Registration Committee every application for a certificate or renewal thereof that he proposes to refuse.

Powers and
duties of
Qualification
and
Registration
Committee

(2) The Qualification and Registration Committee shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Qualification and Registration Committee fixes or to take such additional training as the Qualification and Registration Committee specifies.

Conditions
of
certificates

(3) The Qualification and Registration Committee may direct the Manager to issue or refuse to issue certificates and renewals.

(4) The Qualification and Registration Committee may review the qualifications of any member and may impose a limitation on the member's certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Review of
qualifi-
cations

(5) The Manager shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms of the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Qualification and Registration Committee or Discipline Committee directs.

Registers

14.—(1) Where the Qualification and Registration Committee proposes to refuse to grant a certificate to an applicant, the Manager on behalf of the Committee shall serve notice of the proposal of the Committee together with written reasons therefor, on the applicant.

Notice of
proposal
to refuse
registration

(2) Subsection 1 does not apply to a refusal to grant a certificate to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of the Discipline Committee.

Exemptions

(3) A notice under subsection 1 shall inform the applicant that he is entitled to a hearing by the Qualification and Registration Committee if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Committee requiring a hearing.

Notice
requiring
hearing or
review

(4) Where an applicant does not require a hearing by the Committee in accordance with subsection 3, the Committee may refuse the application.

Powers of
Qualification
and
Registration
Committee
where
hearing or
review

(5) The findings of fact of the Committee pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under section 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Findings
of fact
1971, c. 47

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 19 apply with necessary modifications to proceedings before the Committee under this section.

Procedures
on hearings

(7) The Committee shall, after the hearing or review,

Powers of
Committee
upon hearing
or review

(a) confirm the proposed decision; or

(b) require the applicant to take qualifying examinations or additional training as a condition for registration, or both, as specified by the Committee; or

- (c) direct the Manager to register the applicant on any appropriate register subject to such conditions as the Committee considers appropriate in cases where the Committee finds that the applicant meets the requirements for registration.

Complaints
Committee

15.—(1) Each Complaints Committee shall be composed of such number of persons as the Council may determine but at least one member of the Committee shall be a person who is not a member of the Corporation and who is appointed to the Council by the Lieutenant Governor in Council.

Appointment

(2) The Council may appoint any individual member of the Corporation to a Complaints Committee.

Membership
in other
committees

(3) No person who is a member of the Discipline Committee shall be a member of a Complaints Committee.

Chairman

(4) The Council shall name one member of each Complaints Committee to be chairman of that Committee.

Quorum

(5) A majority of the members of a Complaints Committee constitutes a quorum.

Duties

16.—(1) A Complaints Committee shall consider and investigate complaints regarding the conduct or actions of any member of the Corporation, but no action shall be taken by the Committee under clause *a* of subsection 2 unless,

- (a) a written complaint has been filed with the Manager and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanation or representations he may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause *a*;
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

17.—(1) The Discipline Committee shall be composed of such number of persons as the Council may determine but at least two members of the Committee shall be persons who are not members of the Corporation and who are appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) The Council may appoint any individual member of the Corporation to the Discipline Committee. Appointment

(3) The Council shall appoint one of the members of the Discipline Committee who is a member of Council to be the chairman of the Committee. Chairman

(4) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council. Composition of panels

(5) Three members of a panel assigned under subsection 4, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing. Quorum and votes

(6) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(7) The Council may direct the Discipline Committee to hold a hearing and determine any specified allegation of misconduct or incompetence on the part of a member. Reference by Council

18.—(1) The Discipline Committee shall, Duties of Discipline Committee

(a) when so directed by the Council or by a Complaints Committee, hear and determine allegations of misconduct or incompetence against any member;

(b) hear and determine matters referred to it under sections 16 and 22; and

(c) perform such other duties as are assigned to it by the Council.

(2) In the case of hearings into allegations of misconduct or incompetence, the Discipline Committee shall, Idem

(a) consider the allegations, hear the evidence and ascertain the facts of the case;

- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of misconduct or of incompetence.

Misconduct

(3) A member may be found guilty of misconduct by the Committee if,

- (a) the member has been found guilty of an offence relevant to the member's suitability to carry on business as a registered insurance broker upon proof of such conviction; or
- (b) the member has been guilty in the opinion of the Discipline Committee of misconduct as defined in the regulations.

Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion the member has, while acting as an insurance broker, displayed a serious lack of knowledge, skill or judgment or a serious disregard for the welfare of a member of the public.

Powers of Discipline Committee

(5) Where the Discipline Committee finds a member guilty of misconduct or incompetence it may by order,

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum amount prescribed in the regulations to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates;

(g) impose a requirement that the member reimburse any person who made a complaint against the member for any costs incurred by such person in the proceedings,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Corporation reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on the grounds of misconduct or incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken orders otherwise. Stay

(8) Where the Discipline Committee finds a member guilty of misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(9) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

19.—(1) In proceedings before the Discipline Committee, the Corporation and the member of the Corporation whose conduct is being investigated in the proceedings are parties to the proceedings. Parties to discipline proceedings

(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Members holding hearing not to have taken part in investigation, etc.

Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate.

In camera
1971, c. 47

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Manager before the day fixed for the hearing, the Committee shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording
of
evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished to the parties at their own cost.

Evidence

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Only members
at hearing to
participate
in decision

(7) No member of the Discipline Committee shall participate in a decision of the Committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of
documentary
evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the Committee within a reasonable time after the matter in issue has been finally determined.

Reference
to board
of inquiry

20.—(1) Where the Manager receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Council who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the Corporation and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examina-
tion

(2) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical

or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

(3) The board of inquiry shall report its findings to the Council and deliver a copy thereof and a copy of any medical report obtained under subsection 2 to the member about whom the report is made and if, in the opinion of the Council, the evidence so warrants, the Council shall refer the matter to the Qualification and Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Hearing by
Qualification
and
Registration
Committee

(4) The Corporation, the person whose capacity is being investigated and any other person specified by the Qualification and Registration Committee are parties to a proceeding under this section.

Parties

(5) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceeding,

Medical
evidence

(a) where the evidence is required by the Corporation, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(6) The Qualification and Registration Committee shall, after the hearing,

Powers of
Qualification
and
Registration
Committee

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his certificate,

(ii) suspend his certificate for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

Appeal to
court

21.—(1) Any party to proceedings before the Discipline Committee or the Qualification and Registration Committee may appeal from its decision or order to the Supreme Court.

Powers of
court on
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Committee appealed from and may exercise all powers of the Committee and may direct the Committee or the Corporation to take any action which the Committee or the Corporation may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the Committee, or the court may refer the matter back to the Committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Restoration
of regis-
tration or
certificate

22.—(1) A person whose certificate has been revoked or suspended for cause under this Act, may apply at any time in writing to the Manager for the issuance of a certificate or removal of the suspension.

Reference
to
Discipline
Committee

(2) The Manager shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Qualification and Registration Committee, which shall hold a hearing and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Restrain-
ing orders

23.—(1) Where it appears to the Corporation that a person does not comply with a provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Corporation may apply to a judge of the Supreme Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Stop-
orders

24.—(1) Where the Corporation made a *prima facie* case that a member has been or may be guilty of misconduct in connection with any property in his possession or under his control, a judge of the Supreme Court may, upon an *ex parte* application by the Corporation, order that the property described in the order shall

not be paid out or dealt with by the person or persons named in the order without the leave of a judge of the Supreme Court.

(2) Where the Corporation makes a *prima facie* case that the business of a member or former member is neglected to the prejudice of any person or that the interests of the clients of the member or former member are not being protected or that the member or former member has converted trust funds, a judge of the Supreme Court may, upon *ex parte* application by the Corporation, by order appoint a person as trustee with or without bond, to take possession of any property or undertaking in the possession of or under the control of the member or former member for the purpose of preserving, carrying on or winding up the business of the member or former member.

Appoint-
ment of
trustees

(3) A person appointed under subsection 2 shall, in respect of any trust property of the member or former member, be the trustee thereof, and he shall in respect thereof take the place of a personal representative, committee or other representative, if any, of the member or former member.

Idem

(4) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection 1 or 2.

Variation,
discharge
of order

(5) The judge may, in an order made under subsection 2, make provision for the remuneration, disbursements and indemnification of the trustee out of such moneys or otherwise as the judge may specify.

Remunera-
tion

25.—(1) Where the Manager, or in his absence, a person designated by the Manager, believes on reasonable and probable grounds that a member has committed an act of misconduct or incompetence, the Manager or the Manager's designate may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Manager or the Manager's designate.

Investi-
gation of
members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of
investigator

1971, c. 49

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-
bility
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of
Manager

(7) The Manager shall report the results of the investigation to the Council or such other committee as he considers appropriate.

Matters
confidential

26.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 25 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 25 and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws.

Testimony
in civil
suit

(3) Any information, document, record, statement or thing made or disclosed to the Manager, the Council or a committee of Council concerning a member or a person applying for registration under this Act is privileged and shall not be used as evidence in any civil action or proceeding in any court brought by or on behalf of such member or person.

Privileged
information

27.—(1) No certificate shall be issued to a corporation that acts as an insurance broker if the majority of its issued and outstanding shares that entitle the holder to any voting rights are owned beneficially or otherwise by a non-resident of Canada as defined in subsection 2b of section 353 of *The Insurance Act* unless the corporation was licensed as a broker under *The Insurance Act* on the 27th day of April, 1972.

Prohibition
re: non-
residents

R.S.O. 1970,
c. 224

(2) A corporation that was licensed as an insurance broker on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a certificate under this Act if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other broker or a licensed agent or adjuster.

Prohibition
of a non-
resident to
amalgamate

28.—(1) Every member shall maintain a mailing address in Ontario, which address shall be suitable to permit service by registered mail, and shall register the mailing address with the Manager.

Mailing
address

(2) Any legal process and any notice or document served personally or served by registered mail at the mailing address registered with the Manager is deemed for all purposes to have been served personally upon the member.

Personal
service

(3) For the purpose of any civil action brought against a member, the member is deemed to be a resident of the county in which the mailing address is located.

Deemed
resident

Service of
notice

29.—(1) Subject to section 28, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Idem

(2) For a period of one year after the date on which a former member ceased to be a member of the Corporation, the mailing address of the former member registered with the Manager under section 28 shall be deemed to be the former member's last known address unless the former member registers a new mailing address with the Manager.

Administer-
ing oaths

(3) Every member of the Qualification and Registration Committee, the Discipline Committee and each Complaints Committee has power to administer oaths and affirmations for the purposes of any of its proceedings.

Registrar's
certificate
as evidence

30. Any statement containing information from the records required to be kept by the Manager under this Act, purporting to be certified by the Manager under the seal of the Corporation is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Manager and without proof of the seal.

Corporation,
Council and
committees

31. No action or other proceeding for damages shall be instituted against the Corporation, the Council, a Committee or any member of the Council or committee, or any officers, servants, agents or appointees of the Corporation, for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Trust
funds

32.—(1) All funds received or receivable by a member on behalf of insurers in the course of his business from the public on payment of premiums or for services performed or to be performed in the future are deemed to be trust funds.

Idem

(2) No member shall assign, pledge, hypothecate or mortgage or in any way charge the funds referred to in subsection 1 whether or not such funds have been received or remain receivable.

Idem

(3) Any assignment, pledge, hypothecation, mortgage or other charge of or on funds referred to in subsection 1 is null and void as against the beneficial owner of the funds.

33.—(1) No person shall make or cause to be made any wilful falsification in any matter relating to a register or issue a false certificate or document with respect to registration. Falsification of certificates

(2) No person shall wilfully procure or attempt to procure himself or any other person to be registered under this Act by knowingly making any false representation or declaration or by making any fraudulent representation or declaration, either orally or in writing. False representations, etc.

34.—(1) Every person who contravenes any provision of this Act and every director or officer of a corporation or unincorporated association and every member of a partnership who knowingly concur in such contravention is guilty of an offence and on conviction is liable to a fine of \$5,000 or to imprisonment for a term of not more than six months, or to both. Offence

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporation

(3) No proceeding under this section shall be commenced more than five years after the time when the subject-matter of the proceeding arose. Limitation period

35. The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (b) governing the size and composition of the Council;
- (c) respecting any matter ancillary to the provisions of this Act with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing and establishing the requirements and qualifications for the issuing and renewal of certificates;
- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for registered insurance brokers;
- (g) defining misconduct for the purposes of this Act and providing for a code of conduct;

- (h) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (i) respecting the reporting and publication of decisions in disciplinary matters;
- (j) providing for the compilation of statistical information on the supply, distribution and business activities of members and requiring members to provide the information necessary to compile such statistics;
- (k) fixing maximum fines that may be imposed upon members found guilty of misconduct;
- (l) establishing rules of practice and procedure for hearings held under this Act;
- (m) respecting trust funds and the keeping of trust accounts by members;
- (n) respecting the reporting and auditing of members' accounts and specifying the type and nature thereof;
- (o) requiring the filing of financial guarantees by members of the Corporation and respecting the collateral security for terms, conditions and form of financial guarantees;
- (p) establishing and governing minimum indemnity insurance requirements for members and requiring and respecting errors and omissions insurance;
- (q) establishing and governing minimum equity capitalization requirements for members;
- (r) establishing and respecting restrictions and limitations on the sale and ownership of insurance brokers and the businesses of insurance brokers;
- (s) prescribing forms and providing for their use;
- (t) exempting any person or group of persons from all or part of the provisions of this Act and the regulations subject to such terms and conditions as may be set out in the regulations.

Transition

36.—(1) Notwithstanding any other provision of this Act, a person holding a valid licence as an insurance agent or an insurance broker under *The Insurance Act* issued before the day on

which this section comes into force, who is an insurance broker within the meaning of insurance broker contained in this Act, shall be deemed to be a registered insurance broker under this Act and the person shall be so registered as a member by the Manager.

(2) Notwithstanding any other provision of this Act, a person ^{Idem} who has carried on business as an insurance consultant for a period of five years before the day on which this Act comes into force and who complies with this Act and the regulations is entitled, upon application made within two months of the day on which this Act comes into force, to become a registered insurance broker and the person shall be so registered as a member by the Manager.

PART II

INSURANCE ACT AMENDMENTS

37.—(1) Paragraph 5 of section 1 of *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: ^{s. 1, par. 5, re-enacted}

5. “agent” means a person who for compensation, commission, or any other thing of value, solicits insurance on behalf of an insurer who has appointed him to act as his agent and on behalf of the Facility Association under *The Compulsory Automobile Insurance Act, 1979* or a person who, not being a member of the Registered Insurance Brokers of Ontario or not being a person acting under the authority of subsection 15, 16 or 17 of section 342, solicits insurance on behalf of an insurer or transmits for a person other than himself an application for, or a policy of insurance to or from an insurer, or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal with an insurer. ^{1979, c. 87}

(2) Paragraph 11 of the said section 1 is repealed and the following substituted therefor: ^{s. 1, par. 11, re-enacted}

11. “broker” means an insurance broker within the meaning of *The Registered Insurance Brokers Act, 1980*. ^{1980, c. ...}

38.—(1) Subsection 12 of section 342 of the said Act is repealed and the following substituted therefor: ^{s. 342 (12), re-enacted}

(12) No agent for insurance other than life insurance shall be licensed to act as agent for more than one insurer transacting ^{Authority of agent}

insurance and the name of such insurer shall be specified in the licence and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer.

Insurance
groups

(12a) Notwithstanding subsection 12, an agent may be licensed to act as agent for an affiliated group of insurers that, in the opinion of the Superintendent, are carrying on business as a common undertaking and such affiliated group of insurers shall be deemed to be an insurer for the purpose of determining the agent's authority to act as an agent under this Act.

s. 342 (18),
repealed

(2) Subsection 18 of the said section 342 is repealed.

s. 343,
repealed

39. Section 343 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 66, section 13, is repealed.

ss. 344, 345
and 346,
repealed

40. Sections 344, 345 and 346 of the said Act are repealed.

s. 352 (1),
amended

41. Subsection 1 of section 352 of the said Act is amended by striking out "brokers" in the first line.

s. 353 (1),
amended

42.—(1) Subsection 1 of section 353 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 84, section 19, is amended by striking out "brokers" in the first line and "broker" in the fourth line.

s. 353 (2),
amended

(2) Subsection 2 of the said section 353 is amended by striking out "or brokers" in the first line and by striking out "or broker" in the fourth line.

s. 353 (2a),
amended

(3) Subsection 2a of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the second line.

s. 353 (2c),
amended

(4) Subsection 2c of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the first line and in the ninth line.

s. 353 (3),
amended

(5) Subsection 3 of the said section 353 is amended by striking out "brokers" in the fourth line.

s. 353 (6),
amended

(6) Subsection 6 of the said section 353 is amended by striking out "or broker" in the second line.

s. 354,
amended

43. Section 354 of the said Act is amended by striking out "broker" in the second line, the third line and the sixth line.

s. 356 (1),
re-enacted

44. Subsection 1 of section 356 of the said Act is repealed and the following substituted therefor:

(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not an agent or broker or a person acting under subsection 15 of section 342 and whoever contravenes this subsection is guilty of an offence.

No compensation to be paid by insurer not licensed

45. Section 359 of the said Act is amended by striking out "a broker or adjuster" in the second line and inserting in lieu thereof "an adjuster".

s. 359, amended

46. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commencement

47. The short title of this Act is *The Registered Insurance Brokers Act, 1980*.

Short title

An Act respecting the
Registered Insurance Brokers of Ontario

1st Reading

June 6th, 1980

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act respecting
the Registered Insurance Brokers of Ontario

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTE

The Bill establishes the Registered Insurance Brokers of Ontario as a self-governing body composed of persons who act as insurance brokers in Ontario. The Bill continues the Registered Insurance Brokers of Ontario as a body corporate and provides the Corporation with certain powers in relation to the registration and discipline of insurance brokers. The Bill sets out procedures governing the manner in which the Corporation exercises its powers and establishes a procedure for dealing with complaints from the public concerning insurance brokers. The Bill provides for lay representation on the Council and committees of the Corporation. The Bill makes it an offence for a person to act as an insurance broker unless the person is registered as an insurance broker under the Act.

Part II of the Bill contains complementary amendments to *The Insurance Act*.

BILL 118

1980

An Act respecting the Registered Insurance Brokers of Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

REGISTERED INSURANCE BROKERS OF ONTARIO

1. In this Act,

Interpre-
tation

- (a) "applicant" means an individual, partnership or corporation that applies for registration under this Act;
- (b) "board of inquiry" means a board of inquiry appointed by the Council;
- (c) "certificate" means a certificate issued under this Act;
- (d) "Complaints Committee" means the Complaints Committee of the Council established under this Act;
- (e) "Council" means the Council of the Registered Insurance Brokers of Ontario;
- (f) "contract" has the same meaning as in *The Insurance Act* but does not include a contract of life insurance as defined in that Act; R.S.O. 1970,
c. 224
- (g) "Corporation" means the body corporate known as the Registered Insurance Brokers of Ontario;
- (h) "Discipline Committee" means the Discipline Committee of the Council established under this Act;
- (i) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a

nature and extent making it desirable in the interest of the public or the member that he no longer be permitted to carry on business as a registered insurance broker or that his business be restricted;

R.S.O. 1970,
c. 224

- (j) "insurance" has the same meaning as in *The Insurance Act* but does not include life insurance as defined in that Act;
- (k) "insurance agent" means an agent within the meaning of *The Insurance Act*;
- (l) "insurance broker" means any person who or which for any compensation, commission or other thing of value, with respect to persons or property in Ontario, deals directly with the public and,
 - (i) acts or aids in any manner in soliciting, negotiating or procuring the making of any contract of insurance or reinsurance whether or not he has agreements with insurers allowing him to bind coverage and countersign insurance documents on behalf of insurers, or
 - (ii) provides risk management services including claims assistance where required, or
 - (iii) provides consulting or advisory services with respect to insurance or reinsurance, or
 - (iv) holds himself out as an insurance consultant or examines, appraises, reviews or evaluates any insurance policy, plan or program or makes recommendations or gives advice with regard to any of the above;
- (m) "Manager" means the Manager of the Registered Insurance Brokers of Ontario;
- (n) "member" means an individual, partnership or corporation registered under this Act to carry on business as an insurance broker;
- (o) "Minister" means the Minister of Consumer and Commercial Relations;
- (p) "misconduct" means misconduct as defined in the regulations;
- (q) "person" includes a partnership and an unincorporated association;

- (r) “public” means persons other than insurers, insurance brokers, insurance adjusters and insurance agents;
- (s) “Qualification and Registration Committee” means the Qualification and Registration Committee of the Council established under this Act;
- (t) “registered insurance broker” means a person registered under this Act to carry on business as an insurance broker;
- (u) “Superintendent” means the Superintendent of Insurance.

2.—(1) No person shall act as an insurance broker unless the person is a registered insurance broker under this Act. Prohibition

(2) Subsection 1 does not apply to, Exceptions

- (a) lawyers, accountants, or actuaries acting in their professional capacity;
- (b) an insurance agent licensed under *The Insurance Act*, while acting within the authority of his licence; R.S.O. 1970,
c. 224
- (c) an insurance adjuster licensed under *The Insurance Act*, while acting within the authority of his licence;
- (d) any individual, partnership or corporation who acts solely as a reinsurance broker;
- (e) a person registered under *The Travel Industry Act, 1974* acting in respect of travel accident and sickness, baggage or trip cancellation insurance; 1974, c. 115
- (f) an employee of a person registered under this Act when the employee is acting for or on behalf of his employer engaged solely in the performance of clerical or administrative duties in the office of his employer;
- (g) any regular salaried employee of an insured or of a subsidiary or affiliate or corporate insured whose duties in whole or in part are to negotiate for or procure insurance or render other services on behalf of such employer or employers in connection with the procuring or maintaining of insurance on the property or risks of such employer or employers if the employee does not receive compensation, commission or other thing of value from any insurance agent, broker, or insurer for, or in connection with such services;

(h) a trustee appointed under this Act;

(i) an insurer or a subsidiary or an affiliate of an insurer or any employee, officer or director thereof if he is not acting in any manner in soliciting, negotiating or procuring the making of any contract of insurance;

(j) such other persons as are exempted by the regulations.

Prohibition

3.—(1) No person shall hold himself or itself out as an insurance broker or as the holder of a certificate under this Act unless the person is the holder of a certificate under this Act.

Use of title

(2) No person shall use the title “registered insurance broker” or the designation “R.I.B. (Ont.)” or other designation representing or similar to the title unless the person is the holder of a certificate as a registered insurance broker under this Act.

Corporation continued

4.—(1) The Registered Insurance Brokers of Ontario is continued as a body corporate without share capital with power to acquire, hold, dispose of and otherwise deal with real and personal property for the purposes of this Act.

Objects

(2) The Corporation shall have the general purpose of carrying out the powers and duties conferred on it by this Act.

Membership

5.—(1) Every person who is registered by the Corporation is a member of the Corporation.

Resignation of membership

(2) An individual member may resign his membership by filing with the Manager his resignation in writing and his registration is thereupon cancelled subject to the continuing jurisdiction of the Corporation in respect of any disciplinary action arising out of his conduct while a member.

Cancellation for default of fees

(3) The Manager may cancel a registration for non-payment of any prescribed fee after giving the member at least one month notice in writing of the default and intention to cancel the registration subject to the continuing jurisdiction of the Corporation.

Council

6.—(1) The Council shall be the governing body and board of directors of the Corporation and shall manage and administer its affairs.

Composition

(2) Subject to the regulations, the Council shall be composed of,

(a) eight persons who are individual members of the Corporation and are elected by the members in the manner provided by the regulations;

- (b) three persons who are not members of the Corporation and are appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may, by regulation, vary the size of the Council but at least one-quarter of the members of the Council shall be persons appointed by the Lieutenant Governor in Council who are not members of the Corporation. Increased size of Council

(4) Notwithstanding clause *a* of subsection 2, when this Act comes into force, the Lieutenant Governor in Council shall appoint to the Council the eight persons who are individual members of the Corporation for a term of three years, in the case of four of the appointees, and five years, in the case of four of the appointees. Transition

(5) The appointment of every person appointed under clause *b* of subsection 2 shall be for a term not exceeding four years and a person whose appointment expires is eligible for one reappointment. Appointment

7. Every individual member who is, Qualifications to vote

(a) registered under this Act; and

(b) not in default of payment of any prescribed fee,

is qualified to vote at an election of members of the Council.

8.—(1) The Council shall elect annually a President and one or more Vice-Presidents from among its members. President and Vice-President

(2) The Council shall appoint during pleasure a Manager and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the Corporation. Manager and officers

(3) A majority of the members of the Council, including at least one member who is not a member of the Corporation, constitutes a quorum. Quorum

9. The Superintendent shall be deemed to have an interest in the Corporation, as the representative of all persons who may be served by registered insurance brokers, and the Corporation shall, within a reasonable time, furnish the Superintendent with such information and financial statements with respect to the Corporation as the Superintendent may require. Superintendent

10.—(1) The Corporation shall, within four months after the termination of each financial year, provide to its members, the Annual report of Corporation

Minister and the Superintendent an annual report relating to its activities in that year including,

- (a) financial statements of the Corporation and the auditor's report thereon;
- (b) a summary of the complaints received against members, categorized by source, type and disposition of the complaint;
- (c) a summary of disciplinary proceedings undertaken against members, categorized by source, type and disposition of the proceedings;
- (d) a summary of the applications for registration and the disposition of the applications;
- (e) membership statistics of the Corporation, categorized by size and type of member;
- (f) an identification of matters of policy currently under review by the Council and of any proposed changes in policies or programs; and
- (g) any other information considered relevant by the Corporation or requested by the Minister or Superintendent.

Annual
report of
Super-
intendent

(2) The Superintendent shall make an annual examination of the affairs of the Corporation and shall report concerning the examination to the Minister and the Minister shall then lay the annual report of the Corporation and the report of the Superintendent before the Assembly if it is in session and, if not, at the next ensuing session.

By-laws

11.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Corporation not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

- (a) prescribing the seal of the Corporation;
- (b) providing for the execution of documents by the Corporation;
- (c) fixing the financial year of the Corporation and providing for the audit of the accounts and transactions of the Corporation;
- (d) providing procedures for the election of President, Vice-Presidents and other officers of the Corporation, the

filling of a vacancy in those offices, and prescribing their duties;

- (e) respecting the calling, holding and conducting of meetings of the Council and the duties of members of the Council;
- (f) respecting the calling, holding and conducting of meetings of the membership of the Corporation;
- (g) prescribing the remuneration of the members of the Council and committees and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (h) providing for the appointment, composition, powers and duties of the committees of Council as may be required, including the filling of vacancies and the setting of quorums;
- (i) prescribing forms and providing for their use;
- (j) providing procedures for the making, amending and revoking of by-laws;
- (k) respecting management of the property of the Corporation;
- (l) fixing and providing for the payment of annual fees and special assessments by members and fees for certificates and examinations;
- (m) providing for the borrowing of money on the credit of the Corporation and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Corporation to secure any money borrowed or other debt or any other obligation or liability of the Corporation;
- (n) respecting the application of the funds of the Corporation and the investment and reinvestment of any of its funds not immediately required in any investments that are from time to time authorized investments for joint stock insurance companies and cash mutual insurance companies under *The Insurance Act*;
- (o) providing for classes of membership and for the designation of and the terms and conditions attaching to each class;

- (p) respecting the keeping of records by the Corporation, Council, committees and members;
- (q) respecting the duties and authority of the Manager;
- (r) respecting all other things that are considered necessary for the attainment of the objects of the Corporation and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

(a) shall be forwarded to the Superintendent; and

(b) shall be available for public inspection in the office of the Corporation.

Signed
by-laws
and
resolutions

(3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose.

Establish-
ment of
committees

12.—(1) The Council shall establish and appoint as herein-after provided the following committees:

(a) a Qualification and Registration Committee;

(b) one or more Complaints Committees;

(c) a Discipline Committee,

and may establish such other or additional committees as the Council from time to time considers necessary.

Panel of
lay persons

(2) The Lieutenant Governor in Council may appoint such number of persons as the Lieutenant Governor in Council considers appropriate who are not members of the Corporation or members of the Council to a panel of lay persons eligible to serve as members of a Complaints Committee and the Discipline Committee.

Term of
appointment

(3) The appointment of every person under subsection 2 shall be for a term not exceeding four years and a person whose appointment expires is eligible for one reappointment.

Issuance
of
certificates
of
registration

13.—(1) The Manager shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Act and the regulations and has passed such examinations as the Council may set or approve and the Manager shall refer to the Qualification and Registration Committee every application for a certificate or renewal thereof that he proposes to refuse.

(2) The Qualification and Registration Committee shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Qualification and Registration Committee fixes or to take such additional training as the Qualification and Registration Committee specifies.

Powers and duties of Qualification and Registration Committee

(3) The Qualification and Registration Committee may direct the Manager to issue or refuse to issue certificates and renewals.

Conditions of certificates

(4) The Qualification and Registration Committee may review the qualifications of any member and may impose a limitation on the member's certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Review of qualifications

(5) The Manager shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms of the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Qualification and Registration Committee or Discipline Committee directs.

Registers

14.—(1) Where the Qualification and Registration Committee proposes to refuse to grant a certificate to an applicant, the Manager on behalf of the Committee shall serve notice of the proposal of the Committee together with written reasons therefor, on the applicant.

Notice of proposal to refuse registration

(2) Subsection 1 does not apply to a refusal to grant a certificate to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of the Discipline Committee.

Exemptions

(3) A notice under subsection 1 shall inform the applicant that he is entitled to a hearing by the Qualification and Registration Committee if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Committee requiring a hearing.

Notice requiring hearing or review

(4) Where an applicant does not require a hearing by the Committee in accordance with subsection 3, the Committee may refuse the application.

Powers of Qualification and Registration Committee where hearing or review

(5) The findings of fact of the Committee pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under section 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Findings of fact

1971, c. 47

Procedures
on hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 19 apply with necessary modifications to proceedings before the Committee under this section.

Powers of
Committee
upon hearing
or review

(7) The Committee shall, after the hearing or review,

- (a) confirm the proposed decision; or
- (b) require the applicant to take qualifying examinations or additional training as a condition for registration, or both, as specified by the Committee; or
- (c) direct the Manager to register the applicant on any appropriate register subject to such conditions as the Committee considers appropriate in cases where the Committee finds that the applicant meets the requirements for registration.

Complaints
Committee

15.—(1) Each Complaints Committee shall be composed of such number of persons as the Council may determine but at least one member of the Committee shall be a person who is not a member of the Corporation and who is appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council.

Appointment

(2) The Council may appoint any individual member of the Corporation to a Complaints Committee.

Membership
in other
committees

(3) No person who is a member of the Discipline Committee shall be a member of a Complaints Committee.

Chairman

(4) The Council shall name one member of each Complaints Committee to be chairman of that Committee.

Quorum

(5) A majority of the members of a Complaints Committee constitutes a quorum.

Duties

16.—(1) A Complaints Committee shall consider and investigate complaints regarding the conduct or actions of any member of the Corporation, but no action shall be taken by the Committee under clause *a* of subsection 2 unless,

- (a) a written complaint has been filed with the Manager and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanation or representations he may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it ^{Idem} receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause a;
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

17.—(1) The Discipline Committee shall be composed of such ^{Discipline Committee} number of persons as the Council may determine but at least four members of the Committee shall be persons who are not members of the Corporation and who are appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council.

(2) The Council may appoint any individual member of the ^{Appointment} Corporation to the Discipline Committee.

(3) The Council shall appoint one of the members of the Discipline Committee who is a member of Council to be the chairman of the Committee. ^{Chairman}

(4) The chairman of the Discipline Committee may assign a ^{Composition of panels} panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council and a panel of the Discipline Committee is sufficient to exercise the jurisdiction and powers of the Discipline Committee if a quorum is present.

(5) Three members of a panel assigned under subsection 4, of ^{Quorum and votes} whom one shall be a person appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing.

(6) Where a panel of the Discipline Committee commences a ^{Disability of lay member} hearing and the member thereof who is appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(7) The Council may direct the Discipline Committee to hold a ^{Reference by Council} hearing and determine any specified allegation of misconduct or incompetence on the part of a member.

Duties of
Discipline
Committee

18.—(1) The Discipline Committee shall,

- (a) when so directed by the Council or by a Complaints Committee, hear and determine allegations of misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under sections 16 and 22; and
- (c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of misconduct or of incompetence.

Misconduct

(3) A member may be found guilty of misconduct by the Committee if,

- (a) the member has been found guilty of an offence relevant to the member's suitability to carry on business as a registered insurance broker upon proof of such conviction; or
- (b) the member has been guilty in the opinion of the Discipline Committee of misconduct as defined in the regulations.

Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion the member has, while acting as an insurance broker, displayed a serious lack of knowledge, skill or judgment or a serious disregard for the welfare of a member of the public.

Powers of
Discipline
Committee

(5) Where the Discipline Committee finds a member guilty of misconduct or incompetence it may by order,

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;

- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum amount prescribed in the regulations to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates;
- (g) impose a requirement that the member reimburse any person who made a complaint against the member for any costs incurred by such person in the proceedings,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Corporation reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on the grounds of misconduct or incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken orders otherwise. Stay

(8) Where the Discipline Committee finds a member guilty of misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(9) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

19.—(1) In proceedings before the Discipline Committee, the Corporation and the member of the Corporation whose conduct is being investigated in the proceedings are parties to the proceedings. Parties to discipline proceedings

(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

Members holding hearing not to have taken part in investigation, etc.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate.

In camera
1971, c. 47

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Manager before the day fixed for the hearing, the Committee shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished to the parties at their own cost.

Evidence

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Only members at hearing to participate in decision

(7) No member of the Discipline Committee shall participate in a decision of the Committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of documentary evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the Committee within a reasonable time after the matter in issue has been finally determined.

Reference to board of inquiry

20.—(1) Where the Manager receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Council who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the Corporation and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(2) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical

or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

(3) The board of inquiry shall report its findings to the Council and deliver a copy thereof and a copy of any medical report obtained under subsection 2 to the member about whom the report is made and if, in the opinion of the Council, the evidence so warrants, the Council shall refer the matter to the Qualification and Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Hearing by
Qualification
and
Registration
Committee

(4) The Corporation, the person whose capacity is being investigated and any other person specified by the Qualification and Registration Committee are parties to a proceeding under this section.

Parties

(5) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceeding,

Medical
evidence

(a) where the evidence is required by the Corporation, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(6) The Qualification and Registration Committee shall, after the hearing,

Powers of
Qualification
and
Registration
Committee

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his certificate,

(ii) suspend his certificate for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

Appeal to
court

21.—(1) Any party to proceedings before the Discipline Committee or the Qualification and Registration Committee may appeal from its decision or order to the Supreme Court.

Powers of
court on
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Committee appealed from and may exercise all powers of the Committee and may direct the Committee or the Corporation to take any action which the Committee or the Corporation may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the Committee, or the court may refer the matter back to the Committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Restoration
of regis-
tration or
certificate

22.—(1) A person whose certificate has been revoked or suspended for cause under this Act, may apply at any time in writing to the Manager for the issuance of a certificate or removal of the suspension.

Reference
to
Discipline
Committee

(2) The Manager shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Qualification and Registration Committee, which shall hold a hearing and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Restrain-
ing orders

23.—(1) Where it appears to the Corporation that a person does not comply with a provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Corporation may apply to a judge of the Supreme Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Stop-
orders

24.—(1) Where the Corporation made a *prima facie* case that a member has been or may be guilty of misconduct in connection with any property in his possession or under his control, a judge of the Supreme Court may, upon an *ex parte* application by the Corporation, order that the property described in the order shall

not be paid out or dealt with by the person or persons named in the order without the leave of a judge of the Supreme Court.

(2) Where the Corporation makes a *prima facie* case that the business of a member or former member is neglected to the prejudice of any person or that the interests of the clients of the member or former member are not being protected or that the member or former member has converted trust funds, a judge of the Supreme Court may, upon *ex parte* application by the Corporation, by order appoint a person as trustee with or without bond, to take possession of any property or undertaking in the possession of or under the control of the member or former member for the purpose of preserving, carrying on or winding up the business of the member or former member.

Appoint-
ment of
trustees

(3) A person appointed under subsection 2 shall, in respect of any trust property of the member or former member, be the trustee thereof, and he shall in respect thereof take the place of a personal representative, committee or other representative, if any, of the member or former member.

Idem

(4) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection 1 or 2.

Variation,
discharge
of order

(5) The judge may, in an order made under subsection 2, make provision for the remuneration, disbursements and indemnification of the trustee out of such moneys or otherwise as the judge may specify.

Remunera-
tion

25.—(1) Where the Manager, or in his absence, a person designated by the Manager, believes on reasonable and probable grounds that a member has committed an act of misconduct or incompetence, the Manager or the Manager's designate may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Manager or the Manager's designate.

Investi-
gation of
members

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Powers of
investigator

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-
bility
of copies

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of
Manager

(7) The Manager shall report the results of the investigation to the Council or such other committee as he considers appropriate.

Matters
confidential

26.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 25 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 25 and shall not communicate any such matters to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws.

Testimony
in civil
suit

(3) Any information, document, record, statement or thing made or disclosed to the Manager, the Council or a committee of Council concerning a member or a person applying for registration under this Act is privileged and shall not be used as evidence in any civil action or proceeding in any court brought by or on behalf of such member or person.

Privileged
information

27.—(1) No certificate shall be issued to a corporation that acts as an insurance broker if the majority of its issued and outstanding shares that entitle the holder to any voting rights are owned beneficially or otherwise by a non-resident of Canada as defined in subsection 2b of section 353 of *The Insurance Act* unless the corporation was licensed as a broker under *The Insurance Act* on the 27th day of April, 1972.

Prohibition
re: non-
residents

R.S.O. 1970,
c. 224

(2) A corporation that was licensed as an insurance broker on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a certificate under this Act if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other broker or a licensed agent or adjuster.

Prohibition
of a non-
resident to
amalgamate

28.—(1) Every member shall maintain a mailing address in Ontario, which address shall be suitable to permit service by registered mail, and shall register the mailing address with the Manager.

Mailing
address

(2) Any legal process and any notice or document served personally or served by registered mail at the mailing address registered with the Manager is deemed for all purposes to have been served personally upon the member.

Personal
service

(3) For the purpose of any civil action brought against a member, the member is deemed to be a resident of the county in which the mailing address is located.

Deemed
resident

Service of
notice

29.—(1) Subject to section 28, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Idem

(2) For a period of one year after the date on which a former member ceased to be a member of the Corporation, the mailing address of the former member registered with the Manager under section 28 shall be deemed to be the former member's last known address unless the former member registers a new mailing address with the Manager.

Administer-
ing oaths

(3) Every member of the Qualification and Registration Committee, the Discipline Committee and each Complaints Committee has power to administer oaths and affirmations for the purposes of any of its proceedings.

Registrar's
certificate
as evidence

30. Any statement containing information from the records required to be kept by the Manager under this Act, purporting to be certified by the Manager under the seal of the Corporation is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Manager and without proof of the seal.

Corporation,
Council and
committees

31. No action or other proceeding for damages shall be instituted against the Corporation, the Council, a Committee or any member of the Council or committee, or any officers, servants, agents or appointees of the Corporation, for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Trust
funds

32.—(1) All funds received or receivable by a member in the course of his business on behalf of insurers from members of the public or on behalf of members of the public from insurers are deemed to be trust funds.

Idem

(2) No member shall assign, pledge, hypothecate or mortgage or in any way charge the funds referred to in subsection 1 whether or not such funds have been received or remain receivable.

Idem

(3) Any assignment, pledge, hypothecation, mortgage or other charge of or on funds referred to in subsection 1 is null and void as against the beneficial owner of the funds.

33.—(1) No person shall make or cause to be made any wilful falsification in any matter relating to a register or issue a false certificate or document with respect to registration. Falsification of certificates

(2) No person shall wilfully procure or attempt to procure himself or any other person to be registered under this Act by knowingly making any false representation or declaration or by making any fraudulent representation or declaration, either orally or in writing. False representations, etc.

34.—(1) Every person who contravenes any provision of this Act and every director or officer of a corporation or unincorporated association and every member of a partnership who knowingly concur in such contravention is guilty of an offence and on conviction is liable to a fine of \$5,000 or to imprisonment for a term of not more than six months, or to both. Offence

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. Corporation

(3) No proceeding under this section shall be commenced more than five years after the time when the subject-matter of the proceeding arose. Limitation period

35. The Lieutenant Governor in Council may make regulations, Regulations

- (a) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (b) governing the size and composition of the Council;
- (c) respecting any matter ancillary to the provisions of this Act with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing and establishing the requirements and qualifications for the issuing and renewal of certificates;
- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for registered insurance brokers;
- (g) defining misconduct for the purposes of this Act and providing for a code of conduct;

- (h) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (i) respecting the reporting and publication of decisions in disciplinary matters;
- (j) providing for the compilation of statistical information on the supply, distribution and business activities of members and requiring members to provide the information necessary to compile such statistics;
- (k) respecting returns, reports, information or disclosure to be provided or made by members to the Corporation, the Superintendent, members of the public or any other person or persons;
- (l) fixing maximum fines that may be imposed upon members found guilty of misconduct;
- (m) establishing rules of practice and procedure for hearings held under this Act;
- (n) respecting trust funds and the keeping of trust accounts by members;
- (o) respecting the reporting and auditing of members' accounts and specifying the type and nature thereof;
- (p) requiring the filing of financial guarantees by members of the Corporation and respecting the collateral security for terms, conditions and form of financial guarantees;
- (q) establishing and governing minimum indemnity insurance requirements for members and requiring and respecting errors and omissions insurance;
- (r) establishing and governing minimum equity capitalization requirements for members;
- (s) establishing and respecting restrictions and limitations on the sale and ownership of insurance brokers and the businesses of insurance brokers;
- (t) prescribing forms and providing for their use;
- (u) exempting any person or group of persons from all or part of the provisions of this Act and the regulations subject to such terms and conditions as may be set out in the regulations.

36.—(1) Notwithstanding any other provision of this Act, a person holding a valid licence as an insurance agent or an insurance broker under *The Insurance Act* issued before the day on which this section comes into force, who is an insurance broker within the meaning of insurance broker contained in this Act, shall be deemed to be a registered insurance broker under this Act and the person shall be so registered as a member by the Manager.

Transition

R.S.O. 1970,
c. 224

(2) Where the word “agency” or “agencies” appears in the name of a corporation that is an insurance broker, the corporation shall amend its articles of incorporation or other instrument by which the corporation is incorporated by deleting the word “agency” or “agencies” and substituting the word “broker” or “brokers”, as the case may be, within six months after the day on which this section comes into force.

Change of
name

(3) A corporation incorporated by or under the authority of the Legislature may change its name under subsection (2) by filing a notice with the Minister in the form prescribed by the regulations, and on the date of such filing, the name of the corporation is changed and its articles of incorporation are amended accordingly.

Idem

(4) Notwithstanding any other provision of this Act, a person who has carried on business as an insurance consultant for a period of five years before the day on which this Act comes into force and who complies with this Act and the regulations is entitled, upon application made within two months of the day on which this Act comes into force, to become a registered insurance broker and the person shall be so registered as a member by the Manager.

Idem

PART II

INSURANCE ACT AMENDMENTS

37.—(1) Paragraph 5 of section 1 of *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

s. 1, par. 5,
re-enacted

5. “agent” means a person who, for compensation, commission or any other thing of value,

(a) solicits insurance on behalf of an insurer who has appointed him to act as the agent of such insurer or on behalf of the Facility Association under *The Compulsory Automobile Insurance Act, 1979*; or

1979, c. 87

(b) solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for, or a policy of insurance to or from such insurer, or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal with such insurer,

and who is not a member of the Registered Insurance Brokers of Ontario nor a person acting under the authority of subsection 15, 16 or 17 of section 342.

s. 1, par. 11,
re-enacted

(2) Paragraph 11 of the said section 1 is repealed and the following substituted therefor:

1980, c. ...

11. "broker" means an insurance broker within the meaning of *The Registered Insurance Brokers Act, 1980*.

s. 342 (12),
re-enacted

38.—(1) Subsection 12 of section 342 of the said Act is repealed and the following substituted therefor:

Authority
of agent

(12) No agent for insurance, other than an agent who holds a licence within the class of licence referred to in clause *a* of subsection 2, shall be licensed to act as agent for more than one insurer transacting insurance and the name of such insurer shall be specified in the licence and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer.

Insurance
groups

(12a) Notwithstanding subsection 12, an agent may be licensed to act as agent for an affiliated group of insurers that, in the opinion of the Superintendent, are carrying on business as a common undertaking and such affiliated group of insurers shall be deemed to be an insurer for the purpose of determining the agent's authority to act as an agent under this Act.

s. 342 (18),
re-enacted

(2) Subsection 18 of the said section 342 is repealed and the following substituted therefor:

Salaried
officials,
etc., acting
without
licence

(18) Unless the Superintendent otherwise directs, an officer or salaried employee of the head office of an insurer who does not receive commission may, without a licence, solicit contracts of life insurance, accident insurance and sickness insurance on behalf of the insurer but an officer or employee whose application for a licence as an insurance agent or salesman has been refused or whose licence has been revoked or suspended may not so act without the written approval of the Superintendent.

s. 343,
repealed

39. Section 343 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 66, section 13, is repealed.

40. Sections 344, 345 and 346 of the said Act are repealed. ss. 344, 345 and 346, repealed

41. Subsection 1 of section 352 of the said Act is amended by striking out "brokers" in the first line. s. 352 (1), amended

42.—(1) Subsection 1 of section 353 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 84, section 19, is amended by striking out "brokers" in the first line and "broker" in the fourth line. s. 353 (1), amended

(2) Subsection 2 of the said section 353 is amended by striking out "or brokers" in the first line and by striking out "or broker" in the fourth line. s. 353 (2), amended

(3) Subsection 2a of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the second line. s. 353 (2a), amended

(4) Subsection 2c of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the first line and in the ninth line. s. 353 (2c), amended

(5) Subsection 3 of the said section 353 is amended by striking out "brokers" in the fourth line. s. 353 (3), amended

(6) Subsection 6 of the said section 353 is amended by striking out "or broker" in the second line. s. 353 (6), amended

43. Section 354 of the said Act is amended by striking out "broker" in the second line, the third line and the sixth line. s. 354, amended

44. Subsection 1 of section 356 of the said Act is repealed and the following substituted therefor: s. 356 (1), re-enacted

(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not an agent or broker or a person acting under subsection 15 of section 342 and whoever contravenes this subsection is guilty of an offence. No compensation to be paid by insurer not licensed

45. Section 359 of the said Act is amended by striking out "a broker or adjuster" in the second line and inserting in lieu thereof "an adjuster". s. 359, amended

46. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

47. The short title of this Act is *The Registered Insurance Brokers Act, 1980*. Short title

An Act respecting the
Registered Insurance Brokers of Ontario

1st Reading

June 6th, 1980

2nd Reading

November 4th, 1980

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(*Reprinted as amended by the
Administration of Justice Committee*)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act respecting
the Registered Insurance Brokers of Ontario**

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTE

The Bill establishes the Registered Insurance Brokers of Ontario as a self-governing body composed of persons who act as insurance brokers in Ontario. The Bill continues the Registered Insurance Brokers of Ontario as a body corporate and provides the Corporation with certain powers in relation to the registration and discipline of insurance brokers. The Bill sets out procedures governing the manner in which the Corporation exercises its powers and establishes a procedure for dealing with complaints from the public concerning insurance brokers. The Bill provides for lay representation on the Council and committees of the Corporation. The Bill makes it an offence for a person to act as an insurance broker unless the person is registered as an insurance broker under the Act.

Part II of the Bill contains complementary amendments to *The Insurance Act*.

BILL 118

1980

An Act respecting the Registered Insurance Brokers of Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

REGISTERED INSURANCE BROKERS OF ONTARIO

1. In this Act,

Interpre-
tation

- (a) "applicant" means an individual, partnership or corporation that applies for registration under this Act;
- (b) "board of inquiry" means a board of inquiry appointed by the Council;
- (c) "certificate" means a certificate issued under this Act;
- (d) "Complaints Committee" means the Complaints Committee of the Council established under this Act;
- (e) "Council" means the Council of the Registered Insurance Brokers of Ontario;
- (f) "contract" has the same meaning as in *The Insurance Act* but does not include a contract of life insurance as defined in that Act; R.S.O. 1970,
c. 224
- (g) "Corporation" means the body corporate known as the Registered Insurance Brokers of Ontario;
- (h) "Discipline Committee" means the Discipline Committee of the Council established under this Act;
- (i) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a

nature and extent making it desirable in the interest of the public or the member that he no longer be permitted to carry on business as a registered insurance broker or that his business be restricted;

R.S.O. 1970,
c. 224

- (j) "insurance" has the same meaning as in *The Insurance Act* but does not include life insurance as defined in that Act;
- (k) "insurance agent" means an agent within the meaning of *The Insurance Act*;
- (l) "insurance broker" means any person who or which for any compensation, commission or other thing of value, with respect to persons or property in Ontario, deals directly with the public and,
 - (i) acts or aids in any manner in soliciting, negotiating or procuring the making of any contract of insurance or reinsurance whether or not he has agreements with insurers allowing him to bind coverage and countersign insurance documents on behalf of insurers, or
 - (ii) provides risk management services including claims assistance where required, or
 - (iii) provides consulting or advisory services with respect to insurance or reinsurance, or
 - (iv) holds himself out as an insurance consultant or examines, appraises, reviews or evaluates any insurance policy, plan or program or makes recommendations or gives advice with regard to any of the above;
- (m) "Manager" means the Manager of the Registered Insurance Brokers of Ontario;
- (n) "member" means an individual, partnership or corporation registered under this Act to carry on business as an insurance broker;
- (o) "Minister" means the Minister of Consumer and Commercial Relations;
- (p) "misconduct" means misconduct as defined in the regulations;
- (q) "person" includes a partnership and an unincorporated association;

- (r) "public" means persons other than insurers, insurance brokers, insurance adjusters and insurance agents;
- (s) "Qualification and Registration Committee" means the Qualification and Registration Committee of the Council established under this Act;
- (t) "registered insurance broker" means a person registered under this Act to carry on business as an insurance broker;
- (u) "Superintendent" means the Superintendent of Insurance.

2.—(1) No person shall act as an insurance broker unless the Prohibition
 person is a registered insurance broker under this Act.

(2) Subsection 1 does not apply to, Exceptions

- (a) lawyers, accountants, or actuaries acting in their professional capacity;
- (b) an insurance agent licensed under *The Insurance Act*, R.S.O. 1970,
c. 224
 while acting within the authority of his licence;
- (c) an insurance adjuster licensed under *The Insurance Act*,
 while acting within the authority of his licence;
- (d) any individual, partnership or corporation who acts solely as a reinsurance broker;
- (e) a person registered under *The Travel Industry Act, 1974* 1974, c. 115
 acting in respect of travel accident and sickness, baggage or trip cancellation insurance;
- (f) an employee of a person registered under this Act when the employee is acting for or on behalf of his employer engaged solely in the performance of clerical or administrative duties in the office of his employer;
- (g) any regular salaried employee of an insured or of a subsidiary or affiliate or corporate insured whose duties in whole or in part are to negotiate for or procure insurance or render other services on behalf of such employer or employers in connection with the procuring or maintaining of insurance on the property or risks of such employer or employers if the employee does not receive compensation, commission or other thing of value from any insurance agent, broker, or insurer for, or in connection with such services;

(h) a trustee appointed under this Act;

(i) an insurer or a subsidiary or an affiliate of an insurer or any employee, officer or director thereof if he is not acting in any manner in soliciting, negotiating or procuring the making of any contract of insurance;

(j) such other persons as are exempted by the regulations.

Prohibition

3.—(1) No person shall hold himself or itself out as an insurance broker or as the holder of a certificate under this Act unless the person is the holder of a certificate under this Act.

Use of title

(2) No person shall use the title “registered insurance broker” or the designation “R.I.B. (Ont.)” or other designation representing or similar to the title unless the person is the holder of a certificate as a registered insurance broker under this Act.

Corporation continued

4.—(1) The Registered Insurance Brokers of Ontario is continued as a body corporate without share capital with power to acquire, hold, dispose of and otherwise deal with real and personal property for the purposes of this Act.

Objects

(2) The Corporation shall have the general purpose of carrying out the powers and duties conferred on it by this Act.

Membership

5.—(1) Every person who is registered by the Corporation is a member of the Corporation.

Resignation of membership

(2) An individual member may resign his membership by filing with the Manager his resignation in writing and his registration is thereupon cancelled subject to the continuing jurisdiction of the Corporation in respect of any disciplinary action arising out of his conduct while a member.

Cancellation for default of fees

(3) The Manager may cancel a registration for non-payment of any prescribed fee after giving the member at least one month notice in writing of the default and intention to cancel the registration subject to the continuing jurisdiction of the Corporation.

Council

6.—(1) The Council shall be the governing body and board of directors of the Corporation and shall manage and administer its affairs.

Composition

(2) Subject to the regulations, the Council shall be composed of,

(a) eight persons who are individual members of the Corporation and are elected by the members in the manner provided by the regulations;

- (b) three persons who are not members of the Corporation and are appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may, by regulation, vary the size of the Council but at least one-quarter of the members of the Council shall be persons appointed by the Lieutenant Governor in Council who are not members of the Corporation. Increased size of Council

(4) Notwithstanding clause *a* of subsection 2, when this Act comes into force, the Lieutenant Governor in Council shall appoint to the Council the eight persons who are individual members of the Corporation for a term of three years, in the case of four of the appointees, and five years, in the case of four of the appointees. Transition

(5) The appointment of every person appointed under clause *b* of subsection 2 shall be for a term not exceeding four years and a person whose appointment expires is eligible for one reappointment. Appointment

7. Every individual member who is, Qualifications to vote

(a) registered under this Act; and

(b) not in default of payment of any prescribed fee,

is qualified to vote at an election of members of the Council.

8.—(1) The Council shall elect annually a President and one or more Vice-Presidents from among its members. President and Vice-President

(2) The Council shall appoint during pleasure a Manager and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the Corporation. Manager and officers

(3) A majority of the members of the Council, including at least one member who is not a member of the Corporation, constitutes a quorum. Quorum

9. The Superintendent shall be deemed to have an interest in the Corporation, as the representative of all persons who may be served by registered insurance brokers, and the Corporation shall, within a reasonable time, furnish the Superintendent with such information and financial statements with respect to the Corporation as the Superintendent may require. Superintendent

10.—(1) The Corporation shall, within four months after the termination of each financial year, provide to its members, the Annual report of Corporation

Minister and the Superintendent an annual report relating to its activities in that year including,

- (a) financial statements of the Corporation and the auditor's report thereon;
- (b) a summary of the complaints received against members, categorized by source, type and disposition of the complaint;
- (c) a summary of disciplinary proceedings undertaken against members, categorized by source, type and disposition of the proceedings;
- (d) a summary of the applications for registration and the disposition of the applications;
- (e) membership statistics of the Corporation, categorized by size and type of member;
- (f) an identification of matters of policy currently under review by the Council and of any proposed changes in policies or programs; and
- (g) any other information considered relevant by the Corporation or requested by the Minister or Superintendent.

Annual
report of
Super-
intendent

(2) The Superintendent shall make an annual examination of the affairs of the Corporation and shall report concerning the examination to the Minister and the Minister shall then lay the annual report of the Corporation and the report of the Superintendent before the Assembly if it is in session and, if not, at the next ensuing session.

By-laws

11.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Corporation not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

- (a) prescribing the seal of the Corporation;
- (b) providing for the execution of documents by the Corporation;
- (c) fixing the financial year of the Corporation and providing for the audit of the accounts and transactions of the Corporation;
- (d) providing procedures for the election of President, Vice-Presidents and other officers of the Corporation, the

- filling of a vacancy in those offices, and prescribing their duties;
- (e) respecting the calling, holding and conducting of meetings of the Council and the duties of members of the Council;
 - (f) respecting the calling, holding and conducting of meetings of the membership of the Corporation;
 - (g) prescribing the remuneration of the members of the Council and committees and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
 - (h) providing for the appointment, composition, powers and duties of the committees of Council as may be required, including the filling of vacancies and the setting of quorums;
 - (i) prescribing forms and providing for their use;
 - (j) providing procedures for the making, amending and revoking of by-laws;
 - (k) respecting management of the property of the Corporation;
 - (l) fixing and providing for the payment of annual fees and special assessments by members and fees for certificates and examinations;
 - (m) providing for the borrowing of money on the credit of the Corporation and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Corporation to secure any money borrowed or other debt or any other obligation or liability of the Corporation;
 - (n) respecting the application of the funds of the Corporation and the investment and reinvestment of any of its funds not immediately required in any investments that are from time to time authorized investments for joint stock insurance companies and cash mutual insurance companies under *The Insurance Act*;
 - (o) providing for classes of membership and for the designation of and the terms and conditions attaching to each class;

- (p) respecting the keeping of records by the Corporation, Council, committees and members;
- (q) respecting the duties and authority of the Manager;
- (r) respecting all other things that are considered necessary for the attainment of the objects of the Corporation and the efficient conduct of its affairs.

Idem (2) A copy of the by-laws made under subsection 1 and amendments thereto;

(a) shall be forwarded to the Superintendent; and

(b) shall be available for public inspection in the office of the Corporation.

Signed by-laws and resolutions (3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose.

Establishment of committees **12.**—(1) The Council shall establish and appoint as hereinafter provided the following committees:

(a) a Qualification and Registration Committee;

(b) one or more Complaints Committees;

(c) a Discipline Committee,

and may establish such other or additional committees as the Council from time to time considers necessary.

Panel of lay persons (2) The Lieutenant Governor in Council may appoint such number of persons as the Lieutenant Governor in Council considers appropriate who are not members of the Corporation or members of the Council to a panel of lay persons eligible to serve as members of a Complaints Committee and the Discipline Committee.

Term of appointment (3) The appointment of every person under subsection 2 shall be for a term not exceeding four years and a person whose appointment expires is eligible for one reappointment.

Issuance of certificates of registration **13.**—(1) The Manager shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Act and the regulations and has passed such examinations as the Council may set or approve and the Manager shall refer to the Qualification and Registration Committee every application for a certificate or renewal thereof that he proposes to refuse.

(2) The Qualification and Registration Committee shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Qualification and Registration Committee fixes or to take such additional training as the Qualification and Registration Committee specifies.

Powers and duties of Qualification and Registration Committee

(3) The Qualification and Registration Committee may direct the Manager to issue or refuse to issue certificates and renewals.

Conditions of certificates

(4) The Qualification and Registration Committee may review the qualifications of any member and may impose a limitation on the member's certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Review of qualifications

(5) The Manager shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms of the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Qualification and Registration Committee or Discipline Committee directs.

Registers

14.—(1) Where the Qualification and Registration Committee proposes to refuse to grant a certificate to an applicant, the Manager on behalf of the Committee shall serve notice of the proposal of the Committee together with written reasons therefor, on the applicant.

Notice of proposal to refuse registration

(2) Subsection 1 does not apply to a refusal to grant a certificate to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of the Discipline Committee.

Exemptions

(3) A notice under subsection 1 shall inform the applicant that he is entitled to a hearing by the Qualification and Registration Committee if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Committee requiring a hearing.

Notice requiring hearing or review

(4) Where an applicant does not require a hearing by the Committee in accordance with subsection 3, the Committee may refuse the application.

Powers of Qualification and Registration Committee where hearing or review

(5) The findings of fact of the Committee pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under section 15 and 16 of *The Statutory Powers Procedure Act*, 1971.

Findings of fact
1971, c. 47

Procedures
on hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 19 apply with necessary modifications to proceedings before the Committee under this section.

Powers of
Committee
upon hearing
or review

(7) The Committee shall, after the hearing or review,

(a) confirm the proposed decision; or

(b) require the applicant to take qualifying examinations or additional training as a condition for registration, or both, as specified by the Committee; or

(c) direct the Manager to register the applicant on any appropriate register subject to such conditions as the Committee considers appropriate in cases where the Committee finds that the applicant meets the requirements for registration.

Complaints
Committee

15.—(1) Each Complaints Committee shall be composed of such number of persons as the Council may determine but at least one member of the Committee shall be a person who is not a member of the Corporation and who is appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council.

Appointment

(2) The Council may appoint any individual member of the Corporation to a Complaints Committee.

Membership
in other
committees

(3) No person who is a member of the Discipline Committee shall be a member of a Complaints Committee.

Chairman

(4) The Council shall name one member of each Complaints Committee to be chairman of that Committee.

Quorum

(5) A majority of the members of a Complaints Committee constitutes a quorum.

Duties

16.—(1) A Complaints Committee shall consider and investigate complaints regarding the conduct or actions of any member of the Corporation, but no action shall be taken by the Committee under clause *a* of subsection 2 unless,

(a) a written complaint has been filed with the Manager and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanation or representations he may wish to make concerning the matter; and

(b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it ^{Idem} receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause a;
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

17.—(1) The Discipline Committee shall be composed of such ^{Discipline Committee} number of persons as the Council may determine but at least four members of the Committee shall be persons who are not members of the Corporation and who are appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council.

(2) The Council may appoint any individual member of the ^{Appointment} Corporation to the Discipline Committee.

(3) The Council shall appoint one of the members of the Disci- ^{Chairman} pline Committee who is a member of Council to be the chairman of the Committee.

(4) The chairman of the Discipline Committee may assign a ^{Composition of panels} panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council and a panel of the Discipline Committee is sufficient to exercise the jurisdiction and powers of the Discipline Committee if a quorum is present.

(5) Three members of a panel assigned under subsection 4, of ^{Quorum and votes} whom one shall be a person appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing.

(6) Where a panel of the Discipline Committee commences a ^{Disability of lay member} hearing and the member thereof who is appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(7) The Council may direct the Discipline Committee to hold a ^{Reference by Council} hearing and determine any specified allegation of misconduct or incompetence on the part of a member.

Duties of
Discipline
Committee

18.—(1) The Discipline Committee shall,

- (a) when so directed by the Council or by a Complaints Committee, hear and determine allegations of misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under sections 16 and 22; and
- (c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of misconduct or of incompetence.

Misconduct

(3) A member may be found guilty of misconduct by the Committee if,

- (a) the member has been found guilty of an offence relevant to the member's suitability to carry on business as a registered insurance broker upon proof of such conviction; or
- (b) the member has been guilty in the opinion of the Discipline Committee of misconduct as defined in the regulations.

Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion the member has, while acting as an insurance broker, displayed a serious lack of knowledge, skill or judgment or a serious disregard for the welfare of a member of the public.

Powers of
Discipline
Committee

(5) Where the Discipline Committee finds a member guilty of misconduct or incompetence it may by order,

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;

- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum amount prescribed in the regulations to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates;
- (g) impose a requirement that the member reimburse any person who made a complaint against the member for any costs incurred by such person in the proceedings,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Corporation reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on the grounds of misconduct or incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken orders otherwise. Stay

(8) Where the Discipline Committee finds a member guilty of misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(9) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

19.—(1) In proceedings before the Discipline Committee, the Corporation and the member of the Corporation whose conduct is being investigated in the proceedings are parties to the proceedings. Parties to discipline proceedings

(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

Members holding hearing not to have taken part in investigation, etc.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate.

In camera
1971, c. 47

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Manager before the day fixed for the hearing, the Committee shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished to the parties at their own cost.

Evidence

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Only members at hearing to participate in decision

(7) No member of the Discipline Committee shall participate in a decision of the Committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of documentary evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the Committee within a reasonable time after the matter in issue has been finally determined.

Reference to board of inquiry

20.—(1) Where the Manager receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Council who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the Corporation and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(2) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical

or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

(3) The board of inquiry shall report its findings to the Council and deliver a copy thereof and a copy of any medical report obtained under subsection 2 to the member about whom the report is made and if, in the opinion of the Council, the evidence so warrants, the Council shall refer the matter to the Qualification and Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Hearing by
Qualification
and
Registration
Committee

(4) The Corporation, the person whose capacity is being investigated and any other person specified by the Qualification and Registration Committee are parties to a proceeding under this section.

Parties

(5) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceeding,

Medical
evidence

(a) where the evidence is required by the Corporation, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(6) The Qualification and Registration Committee shall, after the hearing,

Powers of
Qualification
and
Registration
Committee

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his certificate,

(ii) suspend his certificate for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

Appeal to
court

21.—(1) Any party to proceedings before the Discipline Committee or the Qualification and Registration Committee may appeal from its decision or order to the Supreme Court.

Powers of
court on
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Committee appealed from and may exercise all powers of the Committee and may direct the Committee or the Corporation to take any action which the Committee or the Corporation may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the Committee, or the court may refer the matter back to the Committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Restoration
of regis-
tration or
certificate

22.—(1) A person whose certificate has been revoked or suspended for cause under this Act, may apply at any time in writing to the Manager for the issuance of a certificate or removal of the suspension.

Reference
to
Discipline
Committee

(2) The Manager shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Qualification and Registration Committee, which shall hold a hearing and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Restrain-
ing orders

23.—(1) Where it appears to the Corporation that a person does not comply with a provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Corporation may apply to a judge of the Supreme Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Stop-
orders

24.—(1) Where the Corporation made a *prima facie* case that a member has been or may be guilty of misconduct in connection with any property in his possession or under his control, a judge of the Supreme Court may, upon an *ex parte* application by the Corporation, order that the property described in the order shall

not be paid out or dealt with by the person or persons named in the order without the leave of a judge of the Supreme Court.

(2) Where the Corporation makes a *prima facie* case that the business of a member or former member is neglected to the prejudice of any person or that the interests of the clients of the member or former member are not being protected or that the member or former member has converted trust funds, a judge of the Supreme Court may, upon *ex parte* application by the Corporation, by order appoint a person as trustee with or without bond, to take possession of any property or undertaking in the possession of or under the control of the member or former member for the purpose of preserving, carrying on or winding up the business of the member or former member. Appointment of trustees

(3) A person appointed under subsection 2 shall, in respect of any trust property of the member or former member, be the trustee thereof, and he shall in respect thereof take the place of a personal representative, committee or other representative, if any, of the member or former member. Idem

(4) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection 1 or 2. Variation, discharge of order

(5) The judge may, in an order made under subsection 2, make provision for the remuneration, disbursements and indemnification of the trustee out of such moneys or otherwise as the judge may specify. Remuneration

25.—(1) Where the Manager, or in his absence, a person designated by the Manager, believes on reasonable and probable grounds that a member has committed an act of misconduct or incompetence, the Manager or the Manager's designate may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Manager or the Manager's designate. Investigation of members

(2) Where the Manager or the Manager's designate appoints persons to make an investigation to ascertain whether a member has committed an act of misconduct or incompetence involving trust funds, the persons appointed shall include two persons representing the insurers for whom funds were or ought to have been held in trust. Idem

(3) For purposes relevant to the subject-matter of an investigation under this section, a person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon Powers of investigator

1971, c. 49

production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction
of
investigator

(4) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(5) Where a provincial judge is satisfied, upon an *ex parte* application by a person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 3, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(6) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 3 or 5 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-
bility
of copies

(7) Any copy made as provided in subsection 6 and certified to be a true copy by a person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of
Manager

(8) The Manager shall report the results of the investigation to the Council or such other committee as he considers appropriate.

26.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 25 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 25 and shall not communicate any such matters to any other person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws.

Testimony
in civil
suit

(3) Any information, document, record, statement or thing made or disclosed to the Manager, the Council or a committee of Council concerning a member or a person applying for registration under this Act is privileged and shall not be used as evidence in any civil action or proceeding in any court brought by or on behalf of such member or person.

Privileged
information

27.—(1) No certificate shall be issued to a corporation that acts as an insurance broker if the majority of its issued and outstanding shares that entitle the holder to any voting rights are owned beneficially or otherwise by a non-resident of Canada as defined in subsection 2b of section 353 of *The Insurance Act* unless the corporation was licensed as a broker under *The Insurance Act* on the 27th day of April, 1972.

Prohibition
re: non-
residents

R.S.O. 1970,
c. 224

(2) A corporation that was licensed as an insurance broker on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a certificate under this Act if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other broker or a licensed agent or adjuster.

Prohibition
of a non-
resident to
amalgamate

28.—(1) Every member shall maintain a mailing address in Ontario, which address shall be suitable to permit service by registered mail, and shall register the mailing address with the Manager.

Mailing
address

Personal
service

(2) Any legal process and any notice or document served personally or served by registered mail at the mailing address registered with the Manager is deemed for all purposes to have been served personally upon the member.

Deemed
resident

(3) For the purpose of any civil action brought against a member, the member is deemed to be a resident of the county in which the mailing address is located.

Service of
notice

29.—(1) Subject to section 28, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Idem

(2) For a period of one year after the date on which a former member ceased to be a member of the Corporation, the mailing address of the former member registered with the Manager under section 28 shall be deemed to be the former member's last known address unless the former member registers a new mailing address with the Manager.

Administer-
ing oaths

(3) Every member of the Qualification and Registration Committee, the Discipline Committee and each Complaints Committee has power to administer oaths and affirmations for the purposes of any of its proceedings.

Registrar's
certificate
as evidence

30. Any statement containing information from the records required to be kept by the Manager under this Act, purporting to be certified by the Manager under the seal of the Corporation is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Manager and without proof of the seal.

Corporation,
Council and
committees

31. No action or other proceeding for damages shall be instituted against the Corporation, the Council, a Committee or any member of the Council or committee, or any officers, servants, agents or appointees of the Corporation, for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Trust
funds

32.—(1) All funds received or receivable by a member in the course of his business on behalf of insurers from members of the public or on behalf of members of the public from insurers are deemed to be trust funds.

(2) No member shall assign, pledge, hypothecate or mortgage ^{Idem} or in any way charge the funds referred to in subsection 1 whether or not such funds have been received or remain receivable.

(3) Any assignment, pledge, hypothecation, mortgage or other ^{Idem} charge of or on funds referred to in subsection 1 is null and void as against the beneficial owner of the funds.

33.—(1) No person shall make or cause to be made any wilful ^{Falsification of certificates} falsification in any matter relating to a register or issue a false certificate or document with respect to registration.

(2) No person shall wilfully procure or attempt to procure ^{False representations, etc.} himself or any other person to be registered under this Act by knowingly making any false representation or declaration or by making any fraudulent representation or declaration, either orally or in writing.

34.—(1) Every person who contravenes any provision of this ^{Offence} Act and every director or officer of a corporation or unincorporated association and every member of a partnership who knowingly concur in such contravention is guilty of an offence and on conviction is liable to a fine of \$5,000 or to imprisonment for a term of not more than six months, or to both.

(2) Where a corporation is convicted of an offence under sub- ^{Corporation} section 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

(3) No proceeding under this section shall be commenced more ^{Limitation period} than five years after the time when the subject-matter of the proceeding arose.

35. The Lieutenant Governor in Council may make regula- ^{Regulations} tions,

- (a) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (b) governing the size and composition of the Council;
- (c) respecting any matter ancillary to the provisions of this Act with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing and establishing the requirements and qualifications for the issuing and renewal of certificates;

- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for registered insurance brokers;
- (g) defining misconduct for the purposes of this Act and providing for a code of conduct;
- (h) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (i) respecting the reporting and publication of decisions in disciplinary matters;
- (j) providing for the compilation of statistical information on the supply, distribution and business activities of members and requiring members to provide the information necessary to compile such statistics;
- (k) respecting returns, reports, information or disclosure to be provided or made by members to the Corporation, the Superintendent, members of the public or any other person or persons;
- (l) fixing maximum fines that may be imposed upon members found guilty of misconduct;
- (m) establishing rules of practice and procedure for hearings held under this Act;
- (n) respecting trust funds and the keeping of trust accounts by members;
- (o) respecting the reporting and auditing of members' accounts and specifying the type and nature thereof;
- (p) requiring the filing of financial guarantees by members of the Corporation and respecting the collateral security for terms, conditions and form of financial guarantees;
- (q) establishing and governing minimum indemnity insurance requirements for members and requiring and respecting errors and omissions insurance;
- (r) establishing and governing minimum equity capitalization requirements for members;

- (s) establishing and respecting restrictions and limitations on the sale and ownership of insurance brokers and the businesses of insurance brokers;
- (t) prescribing forms and providing for their use;
- (u) exempting any person or group of persons from all or part of the provisions of this Act and the regulations subject to such terms and conditions as may be set out in the regulations.

36.—(1) Notwithstanding any other provision of this Act, a person holding a valid licence as an insurance agent or an insurance broker under *The Insurance Act* issued before the day on which this section comes into force, who is an insurance broker within the meaning of insurance broker contained in this Act, shall be deemed to be a registered insurance broker under this Act and the person shall be so registered as a member by the Manager.

Transition

R.S.O. 1970,
c. 224

(2) Where the word “agency” or “agencies” appears in the name of a corporation that is an insurance broker, the corporation shall amend its articles of incorporation or other instrument by which the corporation is incorporated by deleting the word “agency” or “agencies” and substituting the word “broker” or “brokers”, as the case may be, within six months after the day on which this section comes into force.

Change of
name

(3) A corporation incorporated by or under the authority of the Legislature may change its name under subsection 2 by filing a notice with the Minister in the form prescribed by the regulations, and on the date of such filing, the name of the corporation is changed and its articles of incorporation are amended accordingly.

(4) Notwithstanding any other provision of this Act, a person who has carried on business as an insurance consultant for a period of five years before the day on which this Act comes into force and who complies with this Act and the regulations is entitled, upon application made within two months of the day on which this Act comes into force, to become a registered insurance broker and the person shall be so registered as a member by the Manager.

Idem

PART II

INSURANCE ACT AMENDMENTS

37.—(1) Paragraph 5 of section 1 of *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

s. 1, par. 5,
re-enacted

5. "agent" means a person who, for compensation, commission or any other thing of value,

1979, c. 87

(a) solicits insurance on behalf of an insurer who has appointed him to act as the agent of such insurer or on behalf of the Facility Association under *The Compulsory Automobile Insurance Act, 1979*; or

(b) solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for, or a policy of insurance to or from such insurer, or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal with such insurer,

and who is not a member of the Registered Insurance Brokers of Ontario nor a person acting under the authority of subsection 15, 16 or 17 of section 342.

s. 1, par. 11,
re-enacted

(2) Paragraph 11 of the said section 1 is repealed and the following substituted therefor:

1980, c. ...

11. "broker" means an insurance broker within the meaning of *The Registered Insurance Brokers Act, 1980*.

s. 342 (12),
re-enacted

38.—(1) Subsection 12 of section 342 of the said Act is repealed and the following substituted therefor:

Authority
of agent

(12) No agent for insurance, other than an agent who holds a licence within the class of licence referred to in clause *a* of subsection 2, shall be licensed to act as agent for more than one insurer transacting insurance and the name of such insurer shall be specified in the licence and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer.

Insurance
groups

(12a) Notwithstanding subsection 12, an agent may be licensed to act as agent for an affiliated group of insurers that, in the opinion of the Superintendent, are carrying on business as a common undertaking and such affiliated group of insurers shall be deemed to be an insurer for the purpose of determining the agent's authority to act as an agent under this Act.

s. 342 (18),
re-enacted

(2) Subsection 18 of the said section 342 is repealed and the following substituted therefor:

Salaried
officials,
etc., acting
without
licence

(18) Unless the Superintendent otherwise directs, an officer or salaried employee of the head office of an insurer who does not receive commission may, without a licence, solicit contracts of life insurance, accident insurance and sickness insurance on behalf of

the insurer but an officer or employee whose application for a licence as an insurance agent or salesman has been refused or whose licence has been revoked or suspended may not so act without the written approval of the Superintendent.

39. Section 343 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 66, section 13, is repealed. s. 343,
repealed

40. Sections 344, 345 and 346 of the said Act are repealed. ss. 344, 345
and 346,
repealed

41. Subsection 1 of section 352 of the said Act is amended by striking out "brokers" in the first line. s. 352 (1),
amended

42.—(1) Subsection 1 of section 353 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 84, section 19, is amended by striking out "brokers" in the first line and "broker" in the fourth line. s. 353 (1),
amended

(2) Subsection 2 of the said section 353 is amended by striking out "or brokers" in the first line and by striking out "or broker" in the fourth line. s. 353 (2),
amended

(3) Subsection 2*a* of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the second line. s. 353 (2*a*),
amended

(4) Subsection 2*c* of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the first line and in the ninth line. s. 353 (2*c*),
amended

(5) Subsection 3 of the said section 353 is amended by striking out "brokers" in the fourth line. s. 353 (3),
amended

(6) Subsection 6 of the said section 353 is amended by striking out "or broker" in the second line. s. 353 (6),
amended

43. Section 354 of the said Act is amended by striking out "broker" in the second line, the third line and the sixth line. s. 354,
amended

44. Subsection 1 of section 356 of the said Act is repealed and the following substituted therefor: s. 356 (1),
re-enacted

(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not an agent or broker or a person acting under subsection 15 of section 342 and whoever contravenes this subsection is guilty of an offence. No compensa-
tion to be
paid by
insurer not
licensed

s. 359,
amended

45. Section 359 of the said Act is amended by striking out “a broker or adjuster” in the second line and inserting in lieu thereof “an adjuster”.

Commence-
ment

46. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

47. The short title of this Act is *The Registered Insurance Brokers Act, 1980*.

An Act respecting the
Registered Insurance Brokers of Ontario

1st Reading

June 6th, 1980

2nd Reading

November 4th, 1980

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(*Reprinted as amended by the
Committee of the Whole House*)

BILL 118

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act respecting the Registered Insurance Brokers of Ontario

**THE HON. FRANK DREA
Minister of Consumer and Commercial Relations**

TORONTO

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BILL 118

1980

An Act respecting the Registered Insurance Brokers of Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

REGISTERED INSURANCE BROKERS OF ONTARIO

1. In this Act,

Interpre-
tation

- (a) "applicant" means an individual, partnership or corporation that applies for registration under this Act;
- (b) "board of inquiry" means a board of inquiry appointed by the Council;
- (c) "certificate" means a certificate issued under this Act;
- (d) "Complaints Committee" means the Complaints Committee of the Council established under this Act;
- (e) "Council" means the Council of the Registered Insurance Brokers of Ontario;
- (f) "contract" has the same meaning as in *The Insurance Act* but does not include a contract of life insurance as defined in that Act; R.S.O. 1970,
c. 224
- (g) "Corporation" means the body corporate known as the Registered Insurance Brokers of Ontario;
- (h) "Discipline Committee" means the Discipline Committee of the Council established under this Act;
- (i) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a

nature and extent making it desirable in the interest of the public or the member that he no longer be permitted to carry on business as a registered insurance broker or that his business be restricted;

R.S.O. 1970,
c. 224

- (j) "insurance" has the same meaning as in *The Insurance Act* but does not include life insurance as defined in that Act;
- (k) "insurance agent" means an agent within the meaning of *The Insurance Act*;
- (l) "insurance broker" means any person who or which for any compensation, commission or other thing of value, with respect to persons or property in Ontario, deals directly with the public and,
 - (i) acts or aids in any manner in soliciting, negotiating or procuring the making of any contract of insurance or reinsurance whether or not he has agreements with insurers allowing him to bind coverage and countersign insurance documents on behalf of insurers, or
 - (ii) provides risk management services including claims assistance where required, or
 - (iii) provides consulting or advisory services with respect to insurance or reinsurance, or
 - (iv) holds himself out as an insurance consultant or examines, appraises, reviews or evaluates any insurance policy, plan or program or makes recommendations or gives advice with regard to any of the above;
- (m) "Manager" means the Manager of the Registered Insurance Brokers of Ontario;
- (n) "member" means an individual, partnership or corporation registered under this Act to carry on business as an insurance broker;
- (o) "Minister" means the Minister of Consumer and Commercial Relations;
- (p) "misconduct" means misconduct as defined in the regulations;
- (q) "person" includes a partnership and an unincorporated association;

- (r) “public” means persons other than insurers, insurance brokers, insurance adjusters and insurance agents;
- (s) “Qualification and Registration Committee” means the Qualification and Registration Committee of the Council established under this Act;
- (t) “registered insurance broker” means a person registered under this Act to carry on business as an insurance broker;
- (u) “Superintendent” means the Superintendent of Insurance.

2.—(1) No person shall act as an insurance broker unless the person is a registered insurance broker under this Act. Prohibition

(2) Subsection 1 does not apply to, Exceptions

- (a) lawyers, accountants, or actuaries acting in their professional capacity;
- (b) an insurance agent licensed under *The Insurance Act*, while acting within the authority of his licence; R.S.O. 1970,
c. 224
- (c) an insurance adjuster licensed under *The Insurance Act*, while acting within the authority of his licence;
- (d) any individual, partnership or corporation who acts solely as a reinsurance broker;
- (e) a person registered under *The Travel Industry Act, 1974* acting in respect of travel accident and sickness, baggage or trip cancellation insurance; 1974, c. 115
- (f) an employee of a person registered under this Act when the employee is acting for or on behalf of his employer engaged solely in the performance of clerical or administrative duties in the office of his employer;
- (g) any regular salaried employee of an insured or of a subsidiary or affiliate or corporate insured whose duties in whole or in part are to negotiate for or procure insurance or render other services on behalf of such employer or employers in connection with the procuring or maintaining of insurance on the property or risks of such employer or employers if the employee does not receive compensation, commission or other thing of value from any insurance agent, broker, or insurer for, or in connection with such services;

(h) a trustee appointed under this Act;

(i) an insurer or a subsidiary or an affiliate of an insurer or any employee, officer or director thereof if he is not acting in any manner in soliciting, negotiating or procuring the making of any contract of insurance;

(j) such other persons as are exempted by the regulations.

Prohibition

3.—(1) No person shall hold himself or itself out as an insurance broker or as the holder of a certificate under this Act unless the person is the holder of a certificate under this Act.

Use of title

(2) No person shall use the title “registered insurance broker” or the designation “R.I.B. (Ont.)” or other designation representing or similar to the title unless the person is the holder of a certificate as a registered insurance broker under this Act.

Corporation continued

4.—(1) The Registered Insurance Brokers of Ontario is continued as a body corporate without share capital with power to acquire, hold, dispose of and otherwise deal with real and personal property for the purposes of this Act.

Objects

(2) The Corporation shall have the general purpose of carrying out the powers and duties conferred on it by this Act.

Membership

5.—(1) Every person who is registered by the Corporation is a member of the Corporation.

Resignation of membership

(2) An individual member may resign his membership by filing with the Manager his resignation in writing and his registration is thereupon cancelled subject to the continuing jurisdiction of the Corporation in respect of any disciplinary action arising out of his conduct while a member.

Cancellation for default of fees

(3) The Manager may cancel a registration for non-payment of any prescribed fee after giving the member at least one month notice in writing of the default and intention to cancel the registration subject to the continuing jurisdiction of the Corporation.

Council

6.—(1) The Council shall be the governing body and board of directors of the Corporation and shall manage and administer its affairs.

Composition

(2) Subject to the regulations, the Council shall be composed of,

(a) eight persons who are individual members of the Corporation and are elected by the members in the manner provided by the regulations;

- (b) three persons who are not members of the Corporation and are appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may, by regulation, vary the size of the Council but at least one-quarter of the members of the Council shall be persons appointed by the Lieutenant Governor in Council who are not members of the Corporation. Increased size of Council

(4) Notwithstanding clause *a* of subsection 2, when this Act comes into force, the Lieutenant Governor in Council shall appoint to the Council the eight persons who are individual members of the Corporation for a term of three years, in the case of four of the appointees, and five years, in the case of four of the appointees. Transition

(5) The appointment of every person appointed under clause *b* of subsection 2 shall be for a term not exceeding four years and a person whose appointment expires is eligible for one reappointment. Appointment

7. Every individual member who is, Qualifications to vote

(a) registered under this Act; and

(b) not in default of payment of any prescribed fee,

is qualified to vote at an election of members of the Council.

8.—(1) The Council shall elect annually a President and one or more Vice-Presidents from among its members. President and Vice-President

(2) The Council shall appoint during pleasure a Manager and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the Corporation. Manager and officers

(3) A majority of the members of the Council, including at least one member who is not a member of the Corporation, constitutes a quorum. Quorum

9. The Superintendent shall be deemed to have an interest in the Corporation, as the representative of all persons who may be served by registered insurance brokers, and the Corporation shall, within a reasonable time, furnish the Superintendent with such information and financial statements with respect to the Corporation as the Superintendent may require. Superintendent

10.—(1) The Corporation shall, within four months after the termination of each financial year, provide to its members, the Annual report of Corporation

Minister and the Superintendent an annual report relating to its activities in that year including,

- (a) financial statements of the Corporation and the auditor's report thereon;
- (b) a summary of the complaints received against members, categorized by source, type and disposition of the complaint;
- (c) a summary of disciplinary proceedings undertaken against members, categorized by source, type and disposition of the proceedings;
- (d) a summary of the applications for registration and the disposition of the applications;
- (e) membership statistics of the Corporation, categorized by size and type of member;
- (f) an identification of matters of policy currently under review by the Council and of any proposed changes in policies or programs; and
- (g) any other information considered relevant by the Corporation or requested by the Minister or Superintendent.

Annual
report of
Super-
intendent

(2) The Superintendent shall make an annual examination of the affairs of the Corporation and shall report concerning the examination to the Minister and the Minister shall then lay the annual report of the Corporation and the report of the Superintendent before the Assembly if it is in session and, if not, at the next ensuing session.

By-laws

11.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the Corporation not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

- (a) prescribing the seal of the Corporation;
- (b) providing for the execution of documents by the Corporation;
- (c) fixing the financial year of the Corporation and providing for the audit of the accounts and transactions of the Corporation;
- (d) providing procedures for the election of President, Vice-Presidents and other officers of the Corporation, the

filling of a vacancy in those offices, and prescribing their duties;

- (e) respecting the calling, holding and conducting of meetings of the Council and the duties of members of the Council;
- (f) respecting the calling, holding and conducting of meetings of the membership of the Corporation;
- (g) prescribing the remuneration of the members of the Council and committees and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (h) providing for the appointment, composition, powers and duties of the committees of Council as may be required, including the filling of vacancies and the setting of quorums;
- (i) prescribing forms and providing for their use;
- (j) providing procedures for the making, amending and revoking of by-laws;
- (k) respecting management of the property of the Corporation;
- (l) fixing and providing for the payment of annual fees and special assessments by members and fees for certificates and examinations;
- (m) providing for the borrowing of money on the credit of the Corporation and the charging, mortgaging, hypothecating or pledging of any of the real or personal property of the Corporation to secure any money borrowed or other debt or any other obligation or liability of the Corporation;
- (n) respecting the application of the funds of the Corporation and the investment and reinvestment of any of its funds not immediately required in any investments that are from time to time authorized investments for joint stock insurance companies and cash mutual insurance companies under *The Insurance Act*;
- (o) providing for classes of membership and for the designation of and the terms and conditions attaching to each class;

- (p) respecting the keeping of records by the Corporation, Council, committees and members;
- (q) respecting the duties and authority of the Manager;
- (r) respecting all other things that are considered necessary for the attainment of the objects of the Corporation and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection 1 and amendments thereto,

(a) shall be forwarded to the Superintendent; and

(b) shall be available for public inspection in the office of the Corporation.

Signed
by-laws
and
resolutions

(3) Any by-law or resolution signed by all the members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for that purpose.

Establish-
ment of
committees

12.—(1) The Council shall establish and appoint as herein-after provided the following committees:

(a) a Qualification and Registration Committee;

(b) one or more Complaints Committees;

(c) a Discipline Committee,

and may establish such other or additional committees as the Council from time to time considers necessary.

Panel of
lay persons

(2) The Lieutenant Governor in Council may appoint such number of persons as the Lieutenant Governor in Council considers appropriate who are not members of the Corporation or members of the Council to a panel of lay persons eligible to serve as members of a Complaints Committee and the Discipline Committee.

Term of
appointment

(3) The appointment of every person under subsection 2 shall be for a term not exceeding four years and a person whose appointment expires is eligible for one reappointment.

Issuance
of
certificates
of
registration

13.—(1) The Manager shall issue a certificate or renewal thereof to any applicant therefor who is qualified under this Act and the regulations and has passed such examinations as the Council may set or approve and the Manager shall refer to the Qualification and Registration Committee every application for a certificate or renewal thereof that he proposes to refuse.

(2) The Qualification and Registration Committee shall determine the eligibility of applicants for certificates or renewals thereof and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Qualification and Registration Committee fixes or to take such additional training as the Qualification and Registration Committee specifies.

Powers and duties of Qualification and Registration Committee

(3) The Qualification and Registration Committee may direct the Manager to issue or refuse to issue certificates and renewals.

Conditions of certificates

(4) The Qualification and Registration Committee may review the qualifications of any member and may impose a limitation on the member's certificate pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Review of qualifications

(5) The Manager shall maintain one or more registers in which is entered every person to whom a certificate has been issued identifying the terms of the certificate or the registration and every revocation, suspension, cancellation and expiration or other termination and every renewal of the certificate and such other information as the Qualification and Registration Committee or Discipline Committee directs.

Registers

14.—(1) Where the Qualification and Registration Committee proposes to refuse to grant a certificate to an applicant, the Manager on behalf of the Committee shall serve notice of the proposal of the Committee together with written reasons therefor, on the applicant.

Notice of proposal to refuse registration

(2) Subsection 1 does not apply to a refusal to grant a certificate to a person who was previously registered and whose registration was suspended or revoked as a result of a decision of the Discipline Committee.

Exemptions

(3) A notice under subsection 1 shall inform the applicant that he is entitled to a hearing by the Qualification and Registration Committee if he mails or delivers within fifteen days after the notice under subsection 1 is served on him, notice in writing to the Committee requiring a hearing.

Notice requiring hearing or review

(4) Where an applicant does not require a hearing by the Committee in accordance with subsection 3, the Committee may refuse the application.

Powers of Qualification and Registration Committee where hearing or review

(5) The findings of fact of the Committee pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under section 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Findings of fact
1971, c. 47

Procedures
on hearings

(6) The provisions of subsections 2 to 5 and subsections 7 and 8 of section 19 apply with necessary modifications to proceedings before the Committee under this section.

Powers of
Committee
upon hearing
or review

(7) The Committee shall, after the hearing or review,

- (a) confirm the proposed decision; or
- (b) require the applicant to take qualifying examinations or additional training as a condition for registration, or both, as specified by the Committee; or
- (c) direct the Manager to register the applicant on any appropriate register subject to such conditions as the Committee considers appropriate in cases where the Committee finds that the applicant meets the requirements for registration.

Complaints
Committee

15.—(1) Each Complaints Committee shall be composed of such number of persons as the Council may determine but at least one member of the Committee shall be a person who is not a member of the Corporation and who is appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council.

Appointment

(2) The Council may appoint any individual member of the Corporation to a Complaints Committee.

Membership
in other
committees

(3) No person who is a member of the Discipline Committee shall be a member of a Complaints Committee.

Chairman

(4) The Council shall name one member of each Complaints Committee to be chairman of that Committee.

Quorum

(5) A majority of the members of a Complaints Committee constitutes a quorum.

Duties

16.—(1) A Complaints Committee shall consider and investigate complaints regarding the conduct or actions of any member of the Corporation, but no action shall be taken by the Committee under clause *a* of subsection 2 unless,

- (a) a written complaint has been filed with the Manager and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanation or representations he may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Committee in accordance with the information it ^{Idem} receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee;
- (b) direct that the matter not be referred under clause a;
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Act or the regulations or by-laws.

17.—(1) The Discipline Committee shall be composed of such ^{Discipline Committee} number of persons as the Council may determine but at least four members of the Committee shall be persons who are not members of the Corporation and who are appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council.

(2) The Council may appoint any individual member of the ^{Appointment} Corporation to the Discipline Committee.

(3) The Council shall appoint one of the members of the Disci- ^{Chairman} pline Committee who is a member of Council to be the chairman of the Committee.

(4) The chairman of the Discipline Committee may assign a ^{Composition of panels} panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council and a panel of the Discipline Committee is sufficient to exercise the jurisdiction and powers of the Discipline Committee if a quorum is present.

(5) Three members of a panel assigned under subsection 4, of ^{Quorum and votes} whom one shall be a person appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing.

(6) Where a panel of the Discipline Committee commences a ^{Disability of lay member} hearing and the member thereof who is appointed to the Council or to the panel of lay persons by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence.

(7) The Council may direct the Discipline Committee to hold a ^{Reference by Council} hearing and determine any specified allegation of misconduct or incompetence on the part of a member.

Duties of
Discipline
Committee

18.—(1) The Discipline Committee shall,

- (a) when so directed by the Council or by a Complaints Committee, hear and determine allegations of misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under sections 16 and 22; and
- (c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of misconduct or of incompetence.

Misconduct

(3) A member may be found guilty of misconduct by the Committee if,

- (a) the member has been found guilty of an offence relevant to the member's suitability to carry on business as a registered insurance broker upon proof of such conviction; or
- (b) the member has been guilty in the opinion of the Discipline Committee of misconduct as defined in the regulations.

Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion the member has, while acting as an insurance broker, displayed a serious lack of knowledge, skill or judgment or a serious disregard for the welfare of a member of the public.

Powers of
Discipline
Committee

(5) Where the Discipline Committee finds a member guilty of misconduct or incompetence it may by order,

- (a) revoke the certificate of the member;
- (b) suspend the certificate of the member for a stated period;
- (c) impose such restrictions on the certificate of the member for such a period and subject to such conditions as the Committee designates;

- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum amount prescribed in the regulations to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates;
- (g) impose a requirement that the member reimburse any person who made a complaint against the member for any costs incurred by such person in the proceedings,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Corporation reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where the Discipline Committee revokes, suspends or restricts the certificate of a member on the grounds of misconduct or incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision unless the court to which the appeal is taken orders otherwise. Stay

(8) Where the Discipline Committee finds a member guilty of misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(9) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of Committee membership

19.—(1) In proceedings before the Discipline Committee, the Corporation and the member of the Corporation whose conduct is being investigated in the proceedings are parties to the proceedings. Parties to discipline proceedings

(2) A member whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

Members holding hearing not to have taken part in investigation, etc.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Council considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee, and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate.

In camera
1971, c. 47

(4) Notwithstanding anything in *The Statutory Powers Procedure Act, 1971*, hearings of the Discipline Committee shall be held *in camera*, but, if the person whose conduct is being investigated requests otherwise by a notice delivered to the Manager before the day fixed for the hearing, the Committee shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

Recording of evidence

(5) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished to the parties at their own cost.

Evidence

(6) Notwithstanding *The Statutory Powers Procedure Act, 1971*, nothing is admissible in evidence before the Discipline Committee that would be inadmissible in a court in a civil case and the findings of the Discipline Committee shall be based exclusively on evidence admitted before it.

Only members at hearing to participate in decision

(7) No member of the Discipline Committee shall participate in a decision of the Committee pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of documentary evidence

(8) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to him by the Committee within a reasonable time after the matter in issue has been finally determined.

Reference to board of inquiry

20.—(1) Where the Manager receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Council who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the Corporation and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(2) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical

or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his certificate be suspended until he complies.

(3) The board of inquiry shall report its findings to the Council and deliver a copy thereof and a copy of any medical report obtained under subsection 2 to the member about whom the report is made and if, in the opinion of the Council, the evidence so warrants, the Council shall refer the matter to the Qualification and Registration Committee to hold a hearing and may suspend the member's certificate until the determination of the question of his capacity becomes final.

Hearing by
Qualification
and
Registration
Committee

(4) The Corporation, the person whose capacity is being investigated and any other person specified by the Qualification and Registration Committee are parties to a proceeding under this section.

Parties

(5) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceeding,

Medical
evidence

(a) where the evidence is required by the Corporation, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(6) The Qualification and Registration Committee shall, after the hearing,

Powers of
Qualification
and
Registration
Committee

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member, by order,

(i) revoke his certificate,

(ii) suspend his certificate for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the certificate as the Committee considers appropriate.

Appeal to
court

21.—(1) Any party to proceedings before the Discipline Committee or the Qualification and Registration Committee may appeal from its decision or order to the Supreme Court.

Powers of
court on
appeal

(2) An appeal under this section may be made on questions of law or fact or both and the court may affirm or may rescind the decision of the Committee appealed from and may exercise all powers of the Committee and may direct the Committee or the Corporation to take any action which the Committee or the Corporation may take and as the court considers proper, and for such purposes the court may substitute its opinion for that of the Committee, or the court may refer the matter back to the Committee for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Restoration
of regis-
tration or
certificate

22.—(1) A person whose certificate has been revoked or suspended for cause under this Act, may apply at any time in writing to the Manager for the issuance of a certificate or removal of the suspension.

Reference
to
Discipline
Committee

(2) The Manager shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Qualification and Registration Committee, which shall hold a hearing and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Restrain-
ing orders

23.—(1) Where it appears to the Corporation that a person does not comply with a provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the Corporation may apply to a judge of the Supreme Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Supreme Court from an order made under subsection 1.

Stop-
orders

24.—(1) Where the Corporation made a *prima facie* case that a member has been or may be guilty of misconduct in connection with any property in his possession or under his control, a judge of the Supreme Court may, upon an *ex parte* application by the Corporation, order that the property described in the order shall

not be paid out or dealt with by the person or persons named in the order without the leave of a judge of the Supreme Court.

(2) Where the Corporation makes a *prima facie* case that the business of a member or former member is neglected to the prejudice of any person or that the interests of the clients of the member or former member are not being protected or that the member or former member has converted trust funds, a judge of the Supreme Court may, upon *ex parte* application by the Corporation, by order appoint a person as trustee with or without bond, to take possession of any property or undertaking in the possession of or under the control of the member or former member for the purpose of preserving, carrying on or winding up the business of the member or former member. Appointment of trustees

(3) A person appointed under subsection 2 shall, in respect of any trust property of the member or former member, be the trustee thereof, and he shall in respect thereof take the place of a personal representative, committee or other representative, if any, of the member or former member. Idem

(4) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection 1 or 2. Variation, discharge of order

(5) The judge may, in an order made under subsection 2, make provision for the remuneration, disbursements and indemnification of the trustee out of such moneys or otherwise as the judge may specify. Remuneration

25.—(1) Where the Manager, or in his absence, a person designated by the Manager, believes on reasonable and probable grounds that a member has committed an act of misconduct or incompetence, the Manager or the Manager's designate may by order appoint one or more persons to make an investigation to ascertain whether such an act has occurred, and the person appointed shall report the result of his investigation to the Manager or the Manager's designate. Investigation of members

(2) Where the Manager or the Manager's designate appoints persons to make an investigation to ascertain whether a member has committed an act of misconduct or incompetence involving trust funds, the persons appointed shall include two persons representing the insurers for whom funds were or ought to have been held in trust. Idem

(3) For purposes relevant to the subject-matter of an investigation under this section, a person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon Powers of investigator

1971, c. 49

production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation, and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

Obstruction
of
investigator

(4) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(5) Where a provincial judge is satisfied, upon an *ex parte* application by a person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 3, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(6) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 3 or 5 relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Admissi-
bility
of copies

(7) Any copy made as provided in subsection 6 and certified to be a true copy by a person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Report of
Manager

(8) The Manager shall report the results of the investigation to the Council or such other committee as he considers appropriate.

26.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 25 and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 25 and shall not communicate any such matters to any other person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Act and the regulations and by-laws or any proceedings under this Act or the regulations;
- (b) to his counsel; or
- (c) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Act or the regulations or by-laws.

Testimony
in civil
suit

(3) Any information, document, record, statement or thing made or disclosed to the Manager, the Council or a committee of Council concerning a member or a person applying for registration under this Act is privileged and shall not be used as evidence in any civil action or proceeding in any court brought by or on behalf of such member or person.

Privileged
information

27.—(1) No certificate shall be issued to a corporation that acts as an insurance broker if the majority of its issued and outstanding shares that entitle the holder to any voting rights are owned beneficially or otherwise by a non-resident of Canada as defined in subsection 2b of section 353 of *The Insurance Act* unless the corporation was licensed as a broker under *The Insurance Act* on the 27th day of April, 1972.

Prohibition
re: non-
residents

R.S.O. 1970,
c. 224

(2) A corporation that was licensed as an insurance broker on or before the 27th day of April, 1972, and whose issued shares entitling the holders thereof to voting rights were more than 50 per cent owned, as of that date, beneficially or otherwise, by one or more non-residents of Canada is not entitled to continue to hold a certificate under this Act if it amalgamates, unites, merges, acquires the assets or business of, or acquires the shares of any other broker or a licensed agent or adjuster.

Prohibition
of a non-
resident to
amalgamate

28.—(1) Every member shall maintain a mailing address in Ontario, which address shall be suitable to permit service by registered mail, and shall register the mailing address with the Manager.

Mailing
address

Personal
service

(2) Any legal process and any notice or document served personally or served by registered mail at the mailing address registered with the Manager is deemed for all purposes to have been served personally upon the member.

Deemed
resident

(3) For the purpose of any civil action brought against a member, the member is deemed to be a resident of the county in which the mailing address is located.

Service of
notice

29.—(1) Subject to section 28, any notice or document required by this Act to be served may be served personally or by prepaid first class mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by mail, the service shall be deemed to have been made on the fifth day after the day of mailing unless the person to whom notice is given establishes that he, acting in good faith, through absence, accident, illness or other cause beyond his control, did not receive the notice, or did not receive the notice until a later date.

Idem

(2) For a period of one year after the date on which a former member ceased to be a member of the Corporation, the mailing address of the former member registered with the Manager under section 28 shall be deemed to be the former member's last known address unless the former member registers a new mailing address with the Manager.

Administer-
ing oaths

(3) Every member of the Qualification and Registration Committee, the Discipline Committee and each Complaints Committee has power to administer oaths and affirmations for the purposes of any of its proceedings.

Registrar's
certificate
as evidence

30. Any statement containing information from the records required to be kept by the Manager under this Act, purporting to be certified by the Manager under the seal of the Corporation is admissible in evidence in all courts as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the Manager and without proof of the seal.

Corporation,
Council and
committees

31. No action or other proceeding for damages shall be instituted against the Corporation, the Council, a Committee or any member of the Council or committee, or any officers, servants, agents or appointees of the Corporation, for any act done in good faith in the performance or intended performance of any duty or in the exercise or the intended exercise of any power under this Act, a regulation or a by-law, or for any neglect or default in the performance or exercise in good faith of such duty or power.

Trust
funds

32.—(1) All funds received or receivable by a member in the course of his business on behalf of insurers from members of the public or on behalf of members of the public from insurers are deemed to be trust funds.

(2) No member shall assign, pledge, hypothecate or mortgage ^{Idem} or in any way charge the funds referred to in subsection 1 whether or not such funds have been received or remain receivable.

(3) Any assignment, pledge, hypothecation, mortgage or other ^{Idem} charge of or on funds referred to in subsection 1 is null and void as against the beneficial owner of the funds.

33.—(1) No person shall make or cause to be made any wilful falsification in any matter relating to a register or issue a false certificate or document with respect to registration. ^{Falsification of certificates}

(2) No person shall wilfully procure or attempt to procure himself or any other person to be registered under this Act by knowingly making any false representation or declaration or by making any fraudulent representation or declaration, either orally or in writing. ^{False representations, etc.}

34.—(1) Every person who contravenes any provision of this Act and every director or officer of a corporation or unincorporated association and every member of a partnership who knowingly concur in such contravention is guilty of an offence and on conviction is liable to a fine of \$5,000 or to imprisonment for a term of not more than six months, or to both. ^{Offence}

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. ^{Corporation}

(3) No proceeding under this section shall be commenced more than five years after the time when the subject-matter of the proceeding arose. ^{Limitation period}

35. The Lieutenant Governor in Council may make regulations, ^{Regulations}

- (a) respecting and governing the nomination, election and term of office of the members to be elected to the Council, the filling of vacancies on the Council and controverted elections;
- (b) governing the size and composition of the Council;
- (c) respecting any matter ancillary to the provisions of this Act with regard to the issuing, renewal, suspension and revocation of certificates;
- (d) providing for the expiration of certificates and governing and establishing the requirements and qualifications for the issuing and renewal of certificates;

- (e) providing for the maintenance and inspection of registers;
- (f) governing standards of practice for registered insurance brokers;
- (g) defining misconduct for the purposes of this Act and providing for a code of conduct;
- (h) providing for a program for the continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (i) respecting the reporting and publication of decisions in disciplinary matters;
- (j) providing for the compilation of statistical information on the supply, distribution and business activities of members and requiring members to provide the information necessary to compile such statistics;
- (k) respecting returns, reports, information or disclosure to be provided or made by members to the Corporation, the Superintendent, members of the public or any other person or persons;
- (l) fixing maximum fines that may be imposed upon members found guilty of misconduct;
- (m) establishing rules of practice and procedure for hearings held under this Act;
- (n) respecting trust funds and the keeping of trust accounts by members;
- (o) respecting the reporting and auditing of members' accounts and specifying the type and nature thereof;
- (p) requiring the filing of financial guarantees by members of the Corporation and respecting the collateral security for terms, conditions and form of financial guarantees;
- (q) establishing and governing minimum indemnity insurance requirements for members and requiring and respecting errors and omissions insurance;
- (r) establishing and governing minimum equity capitalization requirements for members;

- (s) establishing and respecting restrictions and limitations on the sale and ownership of insurance brokers and the businesses of insurance brokers;
- (t) prescribing forms and providing for their use;
- (u) exempting any person or group of persons from all or part of the provisions of this Act and the regulations subject to such terms and conditions as may be set out in the regulations.

36.—(1) Notwithstanding any other provision of this Act, a person holding a valid licence as an insurance agent or an insurance broker under *The Insurance Act* issued before the day on which this section comes into force, who is an insurance broker within the meaning of insurance broker contained in this Act, shall be deemed to be a registered insurance broker under this Act and the person shall be so registered as a member by the Manager.

Transition

R.S.O. 1970,
c. 224

(2) Where the word “agency” or “agencies” appears in the name of a corporation that is an insurance broker, the corporation shall amend its articles of incorporation or other instrument by which the corporation is incorporated by deleting the word “agency” or “agencies” and substituting the word “broker” or “brokers”, as the case may be, within six months after the day on which this section comes into force.

Change of
name

(3) A corporation incorporated by or under the authority of the Legislature may change its name under subsection 2 by filing a notice with the Minister in the form prescribed by the regulations, and on the date of such filing, the name of the corporation is changed and its articles of incorporation are amended accordingly.

Idem

(4) Notwithstanding any other provision of this Act, a person who has carried on business as an insurance consultant for a period of five years before the day on which this Act comes into force and who complies with this Act and the regulations is entitled, upon application made within two months of the day on which this Act comes into force, to become a registered insurance broker and the person shall be so registered as a member by the Manager.

Idem

PART II

INSURANCE ACT AMENDMENTS

37.—(1) Paragraph 5 of section 1 of *The Insurance Act*, being chapter 224 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor:

s. 1, par. 5,
re-enacted

5. "agent" means a person who, for compensation, commission or any other thing of value,

1979, c. 87

(a) solicits insurance on behalf of an insurer who has appointed him to act as the agent of such insurer or on behalf of the Facility Association under *The Compulsory Automobile Insurance Act, 1979*; or

(b) solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for, or a policy of insurance to or from such insurer, or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal with such insurer,

and who is not a member of the Registered Insurance Brokers of Ontario nor a person acting under the authority of subsection 15, 16 or 17 of section 342.

s. 1, par. 11,
re-enacted

(2) Paragraph 11 of the said section 1 is repealed and the following substituted therefor:

1980, c. ...

11. "broker" means an insurance broker within the meaning of *The Registered Insurance Brokers Act, 1980*.

s. 342 (12),
re-enacted

38.—(1) Subsection 12 of section 342 of the said Act is repealed and the following substituted therefor:

Authority
of agent

(12) No agent for insurance, other than an agent who holds a licence within the class of licence referred to in clause *a* of subsection 2, shall be licensed to act as agent for more than one insurer transacting insurance and the name of such insurer shall be specified in the licence and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer.

Insurance
groups

(12a) Notwithstanding subsection 12, an agent may be licensed to act as agent for an affiliated group of insurers that, in the opinion of the Superintendent, are carrying on business as a common undertaking and such affiliated group of insurers shall be deemed to be an insurer for the purpose of determining the agent's authority to act as an agent under this Act.

s. 342 (18),
re-enacted

(2) Subsection 18 of the said section 342 is repealed and the following substituted therefor:

Salaried
officials,
etc., acting
without
licence

(18) Unless the Superintendent otherwise directs, an officer or salaried employee of the head office of an insurer who does not receive commission may, without a licence, solicit contracts of life insurance, accident insurance and sickness insurance on behalf of

the insurer but an officer or employee whose application for a licence as an insurance agent or salesman has been refused or whose licence has been revoked or suspended may not so act without the written approval of the Superintendent.

39. Section 343 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 66, section 13, is repealed. s. 343,
repealed

40. Sections 344, 345 and 346 of the said Act are repealed. ss. 344, 345
and 346,
repealed

41. Subsection 1 of section 352 of the said Act is amended by striking out "brokers" in the first line. s. 352 (1),
amended

42.—(1) Subsection 1 of section 353 of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 84, section 19, is amended by striking out "brokers" in the first line and "broker" in the fourth line. s. 353 (1),
amended

(2) Subsection 2 of the said section 353 is amended by striking out "or brokers" in the first line and by striking out "or broker" in the fourth line. s. 353 (2),
amended

(3) Subsection 2*a* of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the second line. s. 353 (2*a*),
amended

(4) Subsection 2*c* of the said section 353, as enacted by the Statutes of Ontario, 1972, chapter 66, section 14, is amended by striking out "broker" in the first line and in the ninth line. s. 353 (2*c*),
amended

(5) Subsection 3 of the said section 353 is amended by striking out "brokers" in the fourth line. s. 353 (3),
amended

(6) Subsection 6 of the said section 353 is amended by striking out "or broker" in the second line. s. 353 (6),
amended

43. Section 354 of the said Act is amended by striking out "broker" in the second line, the third line and the sixth line. s. 354,
amended

44. Subsection 1 of section 356 of the said Act is repealed and the following substituted therefor: s. 356 (1),
re-enacted

(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not an agent or broker or a person acting under subsection 15 of section 342 and whoever contravenes this subsection is guilty of an offence. No compensa-
tion to be
paid by
insurer not
licensed

s. 359,
amended

45. Section 359 of the said Act is amended by striking out “a broker or adjuster” in the second line and inserting in lieu thereof “an adjuster”.

Commence-
ment

46. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

47. The short title of this Act is *The Registered Insurance Brokers Act, 1980*.

An Act respecting the
Registered Insurance Brokers of Ontario

1st Reading

June 6th, 1980

2nd Reading

November 4th, 1980

3rd Reading

December 10th, 1980

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Municipality of Metropolitan Toronto Act**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTE

The purpose of this Bill is to increase the representation on the Metropolitan School Board for The Board of Education for the Borough of Scarborough from two members to three members effective December 1st, 1980.

BILL 119

1980

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 121 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 54, section 4 and amended by 1979, chapter 90, section 3, is repealed and the following substituted therefor:

(2) On and after the 1st day of December, 1980, the School Board, subject to subsection 6, shall be composed of the chairman of each board of education in the Metropolitan Area and,

s. 121 (2),
re-enacted

Composition
of
School
Board

- (a) one member of and appointed by The Board of Education for the Borough of Etobicoke;
- (b) three members of and appointed by The Board of Education for the City of North York;
- (c) three members of and appointed by The Board of Education for the Borough of Scarborough;
- (d) five members of and appointed by The Board of Education for the City of Toronto; and
- (e) three members appointed by the Metropolitan Separate School Board who may be members of such board.

2. This Act comes into force on the 1st day of December, 1980.

Commence-
ment

3. The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1980*.

Short title

An Act to amend
The Municipality of Metropolitan
Toronto Act

1st Reading

June 9th, 1980

2nd Reading

3rd Reading

THE HON. T. I. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 119

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Municipality of Metropolitan Toronto Act

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 119

1980

An Act to amend The Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 121 of *The Municipality of Metropolitan Toronto Act*, being chapter 295 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 54, section 4 and amended by 1979, chapter 90, section 3, is repealed and the following substituted therefor:

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2. This Act comes into force on the 1st day of December, 1980.
3. The short title of this Act is *The Municipality of Metropolitan Toronto Amendment Act, 1980*.

Commence-
ment

Short title

An Act to amend
The Municipality of Metropolitan
Toronto Act

1st Reading

June 9th, 1980

2nd Reading

June 17th, 1980

3rd Reading

June 19th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act respecting the City of Brantford, the Township of
Brantford and the County of Brant**

**THE HON. T. L. WELLS
Minister of Intergovernmental Affairs**

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTES

The purpose of this Bill is to provide for the annexation of the lands referred to in sections 2 and 7 of the Bill to the City of Brantford under an agreement reached by the councils of the City of Brantford, the Township of Brantford and the County of Brant.

SECTION 1. Self-explanatory.

SECTION 2. This section provides for the annexation of lands in 1981, 1991 and 1996.

BILL 120 AN ACT TO AMEND THE CITY OF BRANTFORD ACT 1980

An Act respecting the City of Brantford, the Township of Brantford and the County of Brant

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpretation

- (a) "annexed area" means the lands annexed to the City of Brantford under subsection 1 of section 2;
- (b) "City" means The Corporation of the City of Brantford;
- (c) "County" means The Corporation of the County of Brant;
- (d) "Minister" means the Minister of Intergovernmental Affairs;
- (e) "Municipal Board" means the Ontario Municipal Board;
- (f) "Township" means The Corporation of the Township of Brantford.

2.—(1) On the 1st day of January, 1981, the portions of the Township described in Schedule A are annexed to the City. Annexation

(2) On the 1st day of January, 1991, the portions of the Township being composed of approximately 50 acres in Lot 18, Concession II north of and contiguous to Highway 403 and approximately 50 acres in Lot 19, Concession II north of and contiguous to Highway 403, or such other lands as the City and Township may agree upon, as described by an order of the Lieutenant Governor in Council to be made in the year 1990, are annexed to the City. Subsequent annexation

(3) The determination of the lands to be annexed under subsection 2 shall be made jointly by agreement among the City, the Agreement

County and the Township by the 1st day of July, 1990, and, following such agreement, the Lieutenant Governor in Council shall, by order, annex the lands agreed upon by the City, the Township and the County.

Order in
council

(4) If the City, the Township and the County are unable to agree on the lands to be annexed under subsection 2, the Lieutenant Governor in Council shall, by order, annex such lands to the City as the Lieutenant Governor in Council may consider appropriate.

Subsequent
annexation

(5) On the 1st day of January, 1996, the portions of the Township described in Schedule B not previously annexed under subsection 2, are annexed to the City.

Application of
R.S.O. 1970,
c. 284,
ss. 5, 336

3.—(1) Sections 5 and 336 of *The Municipal Act* apply to the City in respect of the lands described in Schedule B.

Roads and
water

(2) On and after the 1st day of January, 1991, the City may provide roads, piped water and sewer services to the lands to be annexed to the City under subsection 5 of section 2.

Limitation

(3) Subject to subsection 2, the City may not extend piped water or sewer services beyond its boundaries without the consent of the Township or unless so ordered by the Province of Ontario under any general Act.

Official
plan
designations

4.—(1) The portions of the Township described in Schedule C shall be designated by the Township in its official plan, and in subsequent amendments thereto, so as to ensure the preservation of farmland, the provision of a municipal water supply and the development of mineral resource extraction and for uses related to agriculture and mineral resource extraction.

Official
plan
amendments

(2) The Township shall prepare, adopt and submit to the Minister of Housing an amendment to its official plan for the area referred to in subsection 1 by the 1st day of September, 1980.

Idem

(3) The Township, subject to the agreement of the City and the County, and the City, subject to the agreement of the Township and the County, shall prepare, adopt and submit to the Minister of Housing by the 1st day of September, 1980 amendments to their official plans for the portions of the area described in Schedule D under their respective jurisdictions.

Idem

(4) The Township shall prepare, in consultation with the City and County, and shall adopt and submit, after consultation with the City and County, to the Minister of Housing in accordance with *The Planning Act* by the 1st day of September, 1981 an

R.S.O. 1970,
c. 349

SECTION 3. This section enables the City to provide municipal services to the lands that will be annexed in 1991 and 1996.

SECTION 4. This section requires that amendments be made to the official plan of the Township. Under subsection 1, the lands in the Township adjacent to the annexed area and described in Schedule C will be designated in the official plan for rural uses.

The area described in Schedule D is a joint planning area of the City and the Township and the official plans of the City and the Township in respect thereof are to be prepared subject to the agreement of the City, the Township and the County. The official plan for the remainder of the Township is to be amended in consultation with the City and the County.

The official plan amendments for the areas described in Schedules C and D will be submitted to a hearing officer for a public hearing following which the recommendation of the hearing officer and recommendation of the Minister of Housing will be submitted to the Lieutenant Governor in Council who will approve the appropriate official plan amendments. The official plan amendments for the remainder of the Township may be approved under *The Planning Act* or at the request of the Township and with the concurrence of the Minister of Housing may be submitted to a hearing officer, in which case the procedures respecting the areas described in Schedules C and D will apply.

amendment to its official plan for the portions of the Township not described in Schedules C and D.

(5) The City, the Township and the County may appoint one or more arbitrators to decide the detailed definition of land uses in the official plan amendments to be submitted in accordance with subsections 2 and 3. Arbitration

(6) If the City, the Township and the County cannot agree on the detailed definition of land uses referred to in subsection 5 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister of Housing shall appoint a hearing officer under subsection 7. Idem

(7) The Minister of Housing shall appoint one or more hearing officers to hear representations and make recommendations, having regard to the objective referred to in subsection 1, concerning the proposed designations for the areas included in the official plan amendments to be submitted in accordance with subsections 2 and 3, and the Minister of Housing may, upon the request of the Township and if he considers it appropriate, appoint one or more hearing officers to hear representations and make recommendations concerning the proposed designations for the areas included in the official plan amendment submitted in accordance with subsection 4, and, following a hearing under rules of procedure adopted by the hearing officer or officers, the recommendations of the hearing officer or officers shall be made to the Minister of Housing concerning the proposed official plan or plans and copies of the recommendations shall be filed with the clerks of the City, the Township and the County and public notice of such filing shall be given by the clerk of each municipality. Hearing officers

(8) Following the recommendations of the hearing officer or officers, the Minister of Housing shall make a recommendation to the Lieutenant Governor in Council as to whether the report of the hearing officer be approved, rejected or varied, and if the recommendation of the Minister of Housing to the Lieutenant Governor in Council is other than that the report of the hearing officer be approved, then the Minister of Housing shall give public notice to this effect, state his intentions and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. Approval of recommendations

(9) Where the Minister of Housing makes a recommendation under subsection 8 respecting the areas referred to in subsections 2 and 3, he shall have regard to the objective set out in subsection 1. Objective to be considered

(10) The City, the Township and the County shall not make representations under subsections 7 and 8 that are contrary to an agreement under subsection 1 or 3, or that are contrary to the decision of an arbitrator under subsection 5. Estoppel

Approval
of official
plans

(11) The Lieutenant Governor in Council having regard to the objective set out in subsection 1 may, by order, approve the proposed amendments to the official plans or may approve them with such modifications as the Lieutenant Governor in Council, following consultation with the municipalities, considers desirable, and thereupon the official plans, as amended, are, for the purposes of every Act, the official plans for the municipalities and portions of municipalities affected thereby.

Mutual
Planning
Advisory
Committee

(12) The City, the Township and the County shall establish a consultative body, to be known as the "Mutual Planning Advisory Committee", to advise the municipalities on planning matters in the portions of the Township and City described in Schedule D.

City's power
to apply to
O.M.B. for
annexations
restricted

5.—(1) The City shall not apply to the Municipal Board for the annexation of any lands in the Township before the 1st day of January, 2004 unless the Township agrees to such annexation.

Exceptions

(2) Notwithstanding subsection 1 but subject to subsection 4, the City may apply to the Municipal Board at any time to annex,

(a) lands within the area described in Schedule C or D, other than lands that are the subject of an agreement under clause *c* of subsection 2 of section 8, to which the Township requests that the City extend piped water or sewer services or to which the Province of Ontario under any general Act requires the City to extend such services;

(b) lands within the area described in Schedule C or D,

(i) for which a draft plan of subdivision to which the Minister of Housing has given approval or draft approval under section 33 of *The Planning Act*, or

(ii) in respect of which a restricted area by-law or by-law amendment which takes effect under section 35 of *The Planning Act* or an approval granted by the Township or a local board thereof,

permits development exceeding that provided for in the official plan amendments submitted under subsections 2 and 3 of section 4 by any of the following,

(iii) residential development, other than farm dwellings, consisting of more than twenty adjacent or proximate dwelling units, or development consisting of more than twenty adjacent or proximate residential lots created as a result of consents under section 29 of *The Planning Act* or by a

R.S.O. 1970,
c. 349

SECTION 5. This section restricts the City's power to annex lands.

SECTION 6. This section provides for the election of the councils and the public utilities commissions of the City and Township, The Brant County Board of Education and The Brant County Separate School Board.

plan or plans of subdivision under section 33 of
The Planning Act,

R.S.O. 1970,
 c. 349

(iv) commercial development of a total of more than 930 square metres of gross floor area on one parcel of land or on two or more adjacent parcels,

(v) industrial development on a total of more than four hectares of land capable of being utilized for industrial purposes on one parcel of land or on two or more adjacent parcels; and

(c) such other lands lying between lands annexed under this subsection and the closest logical boundary of the City that, in the opinion of the Municipal Board, are required to provide an appropriate boundary between the City and the Township.

(3) The County and the Township shall not oppose any annexation application made under clause *a* of subsection 2.

Opposition by
 County and
 Township
 prohibited

(4) The City, the Township and the County may from time to time agree that no application may be made under subsection 2 during the period set out in the agreement with respect to lands described therein and the City shall not apply to the Municipal Board during any such period to annex the described lands.

Agreements
 not to
 annex
 lands

6.—(1) For the term of office beginning on the 1st day of December, 1980, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and shall be the head of the council, and eleven members elected by wards.

Composition
 of City
 council

(2) Subject to subsection 4, for the term of office beginning on the 1st day of December, 1982 and for subsequent terms of office, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and who shall be the head of the council, and such number of members elected by wards as the Minister by order determines, following representations by the City as to the composition of council.

Idem

(3) For the purposes of the elections in the years 1980 and 1982, the Minister may, by order, divide the City and annexed area into wards and make provision for the respective number of members of the council and the public utilities commission of the City to be elected in the respective wards, and the wards provided for the elections in the year 1982 shall remain in effect until altered by the Municipal Board.

Elections in
 1980 and 1982

(4) Notwithstanding *The Municipal Elections Act, 1977*, the Minister may, by order, provide for the holding of the election in

Idem
 1977, c. 62

the year 1980 of the members of the councils of the City and the Township, The Public Utilities Commission of the City of Brantford, the Hydro-Electric Commission of the Township of Brantford, The Brant County Board of Education and The Brant County Separate School Board, including nominations, polling days, qualifications of electors, polling places, the appointment of returning officers, preparation of polling lists, the terms of office of the members and any other matters considered necessary in respect of the election.

Application of
R.S.O. 1970,
c. 284, s. 28

(5) If the wards provided for the elections in the year 1982 are altered by the Municipal Board, the council of the City shall be composed in accordance with section 28 of *The Municipal Act*.

Public
Utilities
Commission
1944, c.72
R.S.O. 1970,
c. 390

(6) Notwithstanding *The City of Brantford Act, 1944* and section 42 of *The Public Utilities Act*, for the term of office beginning the 1st day of December, 1980, The Public Utilities Commission of the City of Brantford shall be composed of the mayor of the City and six members, elected by wards.

Idem

(7) For the term of office beginning the 1st day of December, 1982, the Minister may, by order, following representations by the City and The Public Utilities Commission of the City of Brantford as to the composition of the Commission, determine the composition of the Commission and the composition of the Commission continues as set out in the order until such time as the council of the City, by by-law, provides that *The City of Brantford Act, 1944* shall apply.

1944, c. 72

Transportation
and service
corridor

7.—(1) The City, the Township and the County may by agreement make recommendations with respect to, and the Lieutenant Governor in Council shall, by order, do whatever the Lieutenant Governor in Council considers necessary for, the provision of a transportation and service corridor to link the portion of the annexed area lying to the north-west of the City with the portion of the annexed area lying to the south-west of the City, and, notwithstanding the generality of the foregoing, may authorize the City to acquire any lands that the Lieutenant Governor in Council considers necessary for such purpose.

Arbitration

(2) The City, the Township and the County may appoint one or more arbitrators to make recommendations concerning the limits of the corridor referred to in subsection 1 and the desirability of annexing the area or any part thereof to the City.

Idem

(3) If the City, the Township and the County are unable to agree on the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators by the 30th day of September, 1981, the Minister shall appoint one or more arbitrators to assist in the resolution of the issues that have not been resolved.

SECTION 7. This section provides for the establishment of a transportation and service corridor to link areas annexed to the City. The section also provides for the annexation of lands that are considered appropriate in connection with the corridor.

SECTION 8. This section provides for various cost-sharing agreements respecting the matters set out in the section.

(4) The Lieutenant Governor in Council may, by order, annex Orders in council any or all of the corridor area to the City.

(5) The Lieutenant Governor in Council shall, by order, annex Idem to the City such area as is agreed upon by the City, the Township and the County under this section.

(6) Before an order is made under subsection 4, the Minister Public notice shall cause public notice to be given and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council.

(7) The Lieutenant Governor in Council may, by order, alter Amendment of Schedules the boundaries of the lands described in Schedules C and D to conform with the limits of the corridor area.

8.—(1) The City and the County may enter into agreements to Cost sharing agreements determine the municipal contributions to the Brantford Suburban Roads Commission and the sharing of costs in respect of suburban roads, the Brant Planning Board, the Children's Aid Society of Brant, homes-for-the-aged, rescue truck services, assisted housing, general welfare, hospital debt, health, emergency measures and a fire radio alarm system.

(2) The City and the Township may enter into agreements to, Idem

- (a) share municipal costs attributable to the use of the City of Brantford Public Library and the City landfill site facilities;
- (b) determine the use, maintenance and disposition by the Township of the Shellard Lane well and related water lines;
- (c) define areas in the Township to be supplied with water by the City and establish the rates for such water; and
- (d) define areas in the City to be supplied with water by the Township and establish the rates for such water.

(3) The City, the Township and the County may appoint one or Arbitration more arbitrators, whose decision shall be final, to decide any of the matters referred to in subsections 1 and 2.

(4) If the City, the Township or the County are unable to agree Idem on any of the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide any of the issues which have not been resolved.

(5) Agreements reached for sharing costs shall not require the Assent of electors not required assent of the electors.

Application
of
R.S.O. 1970,
c. 201

(6) Sections 66, 67 and 68 of *The Public Transportation and Highway Improvement Act* do not apply to agreements reached under this section in respect of suburban roads and the Brantford Suburban Roads Commission, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.

Application
of
1978, c. 85

(7) Subsection 6 of section 8 of *The Child Welfare Act, 1978* does not apply to agreements reached under this section in respect of the Children's Aid Society of Brant, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.

Order in
council

(8) The Lieutenant Governor in Council may, by order, approve or reject the agreements referred to in subsections 6 and 7, and following the approval of any agreement, the sharing of costs as approved becomes effective on the date specified in the order.

Transitional
rates

9.—(1) The Minister may provide from time to time, by order, that in the years 1981, 1982, 1983, 1984, 1985 and 1986, and in the manner specified in the order, that the council of the City shall levy and impose on the whole of the annexed area and on the whole of the remainder of the City rates of taxation for general purposes and rates and charges for special purposes that are different than the rates and charges that would have been levied or imposed for such purposes but for the provisions of this section.

Rural areas

(2) The City may provide for rates of taxation for general purposes and rates and charges for special purposes in defined areas of the rural parts of the annexed area lower than the rates generally applicable in the City to reflect the extent to which rural areas do not receive City services, and the rates may vary among the defined areas.

Determination
of area
rating

(3) The level, duration, boundaries and conditions of the area rating authorized under subsection 2 shall be determined by a committee consisting of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint, and the determination of the committee shall be effective upon the unanimous ratification by the councils of the municipalities.

Arbitration

(4) If the committee cannot agree on any of the issues which it is required to determine or if the councils of the municipalities do not ratify the determination of the committee, the councils may appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues.

SECTION 9. This section provides for transitional rates and area rating in the areas to be annexed in 1981.

SECTION 10. This section provides for the method of calculating the surplus for 1980 for which allowance is to be made, or the operating deficit to be provided for, in the estimates for the City for 1981.

SECTION 11. This section provides for the allocation of any surplus or deficit against assessment relating to such surplus or deficit.

SECTION 12. This section vests assets and liabilities attributable to areas annexed under this Bill.

(5) If the councils cannot agree on the appointment of an arbitrator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues. Idem

(6) The Ministry of Revenue shall in the years 1980 and 1981 assess real property in the annexed area on the same basis as the assessment of real property in the Township, and the special assessment roll prepared for the annexed area in accordance with this provision shall be used for the fixing and levying of rates of taxation by the council of the City in the years 1981 and 1982. Assessment in annexed area

10.—(1) For the purposes of subsection 2 of section 307 of *The Municipal Act*, the surplus of the previous year for which allowance is to be made, or the operating deficit to be provided for, in the estimates of the council of the City for the year 1981 shall be the aggregate of the audited surplus or audited operating deficit of the City and the portions of the audited surplus or audited operating deficit of the Township attributable to the annexed area. Estimates R.S.O. 1970, c. 284

(2) For the purposes of subsection 1, the audited surplus or audited operating deficit attributable to the annexed area shall be an amount that is the same proportion of the audited surplus or audited operating deficit of the Township that the amount of the assessment of the annexed area is of the total amount of the assessment of the Township, according to the 1980 assessment rolls as returned to the clerks of the City and Township. Calculation of audited surplus, deficit

11.—(1) In this section, "surplus or operating deficit" includes any reserves provided for under subsection 2 of section 307 of *The Municipal Act* other than reserves established in connection with the employment of officers or servants by the City or the Township. Interpretation

(2) The audited surplus or audited operating deficit of the Township or the City at the 31st day of December, 1980 shall accrue to the credit of or become a charge on the assessment supporting such surplus or operating deficit and shall be provided for by adjustment of the tax rate over a period not exceeding five years from the 1st day of January, 1981. Allocation of surplus or deficit

12.—(1) All the assets and liabilities of the Township attributable to an area annexed to the City under this Act and the County roads in an area so annexed become assets and liabilities of the City on the effective date of the annexation without compensation. Assets and liabilities, County roads

(2) Notwithstanding subsection 1, the Tranquility Fire Hall and Community Centre shall remain an asset of the Township until such time as it ceases to be used by the Township for the purposes for which it was used on the 1st day of April, 1980, and Exceptions

the Shellard Lane well and related water lines shall remain assets of the Township until such time as the Township and the City have reached agreement on the ultimate disposition of the well and water lines.

Arbitration
re assets and
liabilities

13.—(1) In the year in which an annexation occurs under section 2 or 7 of this Act, the Minister shall appoint committees of arbitrators for the purpose of determining the assets and liabilities of the Township attributable to the lands annexed and the disposition, including the physical possession, of the assets and liabilities, including reserve funds, of the Township attributable to such lands.

Composition
of arbitration
committees

(2) Each committee shall consist of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint.

Provisional
determination

(3) Before the 31st day of December of the year in which the annexation occurs, the committee shall, where appropriate, make a provisional determination of the disposition of the known assets, liabilities and reserve funds of the Township and the disposition shall become operative from the 1st day of January of the following year.

Final
determination

(4) As soon as possible thereafter, the committee, where appropriate, shall make a final determination of the disposition of assets, liabilities and reserve funds as at the 31st day of December of the year in which the annexation occurs together with the determination of any financial adjustments that may be necessary.

Notice of
determination
deemed
agreement

(5) The final determination made under subsection 4 shall be forwarded forthwith to the clerks of the municipalities concerned and the Municipal Board, and unless the council of the City, Township or County notifies the Municipal Board in writing within thirty days of the mailing of such determination that it objects to the determination, such determination shall, for the purposes of clause *a* of subsection 11 of section 14 of *The Municipal Act*, be deemed to be agreed upon by such municipalities.

R.S.O. 1970,
c. 284

Proviso

(6) Notwithstanding the provisions of section 11 and this section, the Minister may prescribe the period over which any adjustments and settlements made under section 11 or this section are to be made.

Continuation
of by-laws

14.—(1) Every by-law of the Township and the County as the by-law exists on the 31st day of December, 1980 shall remain in force in the annexed area and may be amended or repealed by the council of the City.

SECTION 13. This section provides for the appointment of committees of arbitrators to identify and provide for the disposition of assets and liabilities attributable to an area annexed under this Bill.

SECTIONS 14-16. Self-explanatory.

SECTION 17. This section confirms the validity of the annexation negotiations and agreement that preceded the introduction of this Bill.

SECTIONS 18, 19. Self-explanatory.

(2) Where the Township or the County has commenced procedures to enact a by-law that, prior to its enactment, requires the approval of any minister of the Crown, any Provincial Ministry, the Municipal Board or any Provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1980, then the council of the City shall be entitled to continue the procedure to finalize such by-law of the Township or the County in so far as it pertains to the City, and the provisions of subsection 1 apply with necessary modifications to any such by-law. Idem

15. Where the Minister or the Lieutenant Governor in Council is given the power to make an order under this Act, the Minister or the Lieutenant Governor in Council, respectively, may appoint such arbitrators or other persons as is considered appropriate to assist in the determination of such matters. Appointment of arbitrators and advisors

16. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that in the Minister's opinion are considered necessary or advisable to carry out effectively the purposes of this Act. General

17. The City, the Township and the County and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter into the Brantford-Brant Local Government Pilot Project Agreement entered into by the municipalities in April, 1980. Brantford-Brant Local Government Pilot Project Agreement

18. The Lieutenant Governor in Council may, at any time prior to the 1st day of January, 1987, by order, on such terms and conditions as the Lieutenant Governor in Council considers appropriate, provide for payments to be made to the City, the Township and the County to achieve any of the purposes of this Act. Grants

19. In the event of any conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails. Conflict

20. This Act comes into force on the day it receives Royal Assent. Commencement

21. The short title of this Act is *The Brantford-Brant Annexation Act, 1980*. Short title

SCHEDULE A

AREAS TO BE ANNEXED TO THE CITY OF BRANTFORD ON THE 1ST DAY OF JANUARY, 1981

The portions of the Township of Brantford described as follows:

FIRSTLY, part of the Township of Brantford, commencing at a point in the northerly boundary of the City of Brantford and the westerly limit of Lot 28 in Concession II of the Township of Brantford;

THENCE northerly along the westerly limit of the said Lot 28 to the northerly limit of the said Lot 28, Concession II;

THENCE easterly along the northerly limits of Lots 28 to 33 inclusive in Concession II, to the easterly limit of said Lot 33 in the said Concession II;

THENCE southerly along the easterly limit of Lot 33 and thereafter following the boundaries between the Township of Brantford and the City of Brantford to the point of commencement;

SECONDLY, part of the Township of Brantford, commencing at the intersection of the westerly boundary of the City of Brantford and the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway No. 403 to the left bank of the Grand River facing downstream;

THENCE southeasterly along the said left bank of the Grand River to the westerly boundary of the City of Brantford;

THENCE northerly along the westerly boundary of the City of Brantford to the point of commencement;

THIRDLY, part of the Township of Brantford, commencing at the southwest-angle of Lot 42 in Concession II of the said Township;

THENCE easterly along the northerly limit of the road allowance between Concessions II and III to the easterly limit of the road allowance between Lots 42 and 43 in the said Township;

THENCE southerly along the easterly limit of the road allowance between Lots 42 and 43 to the northerly limit of the right of way of the Canadian National Railway;

THENCE westerly and northerly following the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

FOURTHLY, part of the Township of Brantford commencing at the intersection of the southerly boundary of the City of Brantford and the easterly limit of the right-of-way of the abandoned Lake Erie and Northern Railway;

THENCE southerly along the said eastern limit to the most westerly angle of a parcel of land designated as Part I on a Reference Plan deposited in the Land Registry Office for the Registry Division of Brant (No. 2) as Plan 2R-399;

THENCE north 63° 11' 45" west along the south western limit of the lands described in Registered Instrument Number A163668, a distance of 1,634.493 metres to the southeasterly limit of Shellard Lane;

THENCE south $50^{\circ} 35'$ west along the southeasterly limit of Shellard Lane 110.96 metres to the southeasterly production of the southerly limit of the lands described in Registered Instrument Number A37439 for the Township of Brantford;

THENCE westerly to and along the southerly limit of the lands of the said Ontario Water Resources to the easterly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southwesterly and northwesterly along the southerly limits of the last mentioned lands to the southeasterly limit of Block 4 in the Kerr Tract in the Township of Brantford;

THENCE southwesterly along the southeasterly limit of the said Block 4 to the northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE northwesterly along the northeasterly limit of the said lands of A. and M. House and the northwesterly prolongation thereof to the northwesterly limit of the right-of-way of the Canadian National Railway;

THENCE northeasterly along the northwesterly limit of the said Railway right-of-way to the westerly limit of the lands of Bruce Patterson described in Registered Instrument Number 39657;

THENCE northerly along the westerly limit of the lands of Bruce Patterson and the northerly prolongation thereof to the centre line of the King's Highway No. 53;

THENCE easterly along the centre line of the said Highway No. 53 to the westerly boundary of the City of Brantford;

THENCE southeasterly along the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

FIFTHLY, part of the Township of Brantford, commencing at the intersection of the easterly limit of Johnson Road and the southerly limit of the King's Highway No. 403;

THENCE easterly along the southerly limit of the said Highway No. 403 to the southerly limit of the right-of-way of the Toronto, Hamilton and Buffalo Railway;

THENCE westerly along the southerly limit of the said Railway right-of-way to the northerly prolongation of the easterly limit of Lot 15 as shown on Registered Plan No. 29;

THENCE southerly to and along the easterly limit of the said Lot 15 to the southeasterly angle of the said Lot 15;

THENCE southerly along the southerly prolongation of the easterly limit of the said Lot 15 to the middle of the main channel of the Grand River;

THENCE westerly along the middle of the said channel to the southeasterly angle of the City of Brantford;

THENCE northeasterly following along the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

SIXTHLY, part of Lots 26 and 27 in Concession II of the said Township of Brantford which, premising that all bearings herein are astronomic and referred to the bearing of the southern limit of the northern half of the said Lots being N. $77^{\circ} 13' 30''$ E. shown on a Reference Plan deposited in the Land Registry Office for the

Registry Division of Brant (No. 2) as Plan 2R-1324, more particularly described as follows:

COMMENCING at the southeasterly angle of the north half of Lot 27 in Concession II of the Township of Brantford;

THENCE south $77^{\circ} 13' 30''$ west along the southerly limit of the north half of Lots 27 and 26 a distance of 811.338 metres to the southwesterly angle of the north half of Lot 26;

THENCE north $16^{\circ} 06'$ west along the said Lot a distance of 256.770 metres;

THENCE north $77^{\circ} 13' 30''$ east 403.665 metres to a point in the western limit of the said Lot 27;

THENCE north $15^{\circ} 55' 30''$ west 100 metres to a point;

THENCE north $77^{\circ} 13' 30''$ east 90 metres to a point;

THENCE north $49^{\circ} 51' 20''$ east 169.588 metres to a point;

THENCE north $77^{\circ} 13' 30''$ east 160.078 metres to a point in the easterly limit of the said Lot 27;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of the said Lot, a distance of 435 metres to the point of commencement.

SCHEDULE B

AREAS TO BE ANNEXED TO THE CITY OF BRANTFORD ON THE 1ST DAY OF JANUARY, 1996

The portion of the Township of Brantford described as follows:

COMMENCING at the intersection of the left bank of the Grand River facing downstream and the centre line of the King's Highway No. 403;

THENCE easterly along the centre line of the said Highway No. 403 to the northeasterly limit of the right-of-way of the Canadian National Railway;

THENCE northwesterly along the northeasterly limit of the said Railway right-of-way to intersect a line parallel with and distant 45.720 metres measured southerly at right angles from the northerly limit of Concession II in the Township of Brantford;

THENCE westerly along the said parallel line to the easterly limit of Lot 18 in the said Concession II;

THENCE southerly along the easterly limit of Lot 18 to intersect a line parallel with and distant 121.920 metres measured southerly at right angles from the northerly limit of the said Concession II;

THENCE westerly along the said parallel line to the left bank of the Grand River facing downstream;

THENCE southerly along the said left bank to the point of commencement.

SCHEDULE C

RESTRICTED TO AGRICULTURE AND RELATED USES AREA

That part of the Township of Brantford commencing at the northwest angle of Lot 24, Concession I;

THENCE easterly along the south limit of Highways No. 5 and 99 to the middle line of Fairchilds Creek in Lot 46, Concession I;

THENCE following the middle line of Fairchilds Creek downstream through all its turnings to the boundary between the Township of Brantford and the Township of Onondaga;

THENCE westerly following said boundary to a point on the south limit of Old Onondaga Road, said point being on a line drawn at right angles to Old Onondaga Road and intersecting the north limit of Old Onondaga Road and its intersection with the west limit of an unnamed road allowance extending northerly into the John Westbrook Grant from Old Onondaga Road;

THENCE northerly at right angles from Old Onondaga Road to the point of intersection of the unnamed road allowance and the north limit of Old Onondaga Road;

THENCE north 10 degrees east 122.53 metres to a point;

THENCE south 77 degrees 23 minutes east 96.50 metres to a point;

THENCE north 26 degrees 45 minutes east 282.21 metres to a point;

THENCE north 62 degrees 48 minutes west 251.49 metres to a point;

THENCE north 63 degrees 40 minutes west 249.372 metres to a point;

THENCE north 64 degrees 6 minutes west 39.11 metres to a point;

THENCE north 25 degrees 54 minutes east to a point on the limit of the Grand River Conservation Authority flood plain for Fairchilds Creek;

THENCE following said limit northeasterly to its point of intersection with the west limit of the Brant School Road;

THENCE northwesterly following the west limit of Brant School Road and its projection to the north side of the King's Highway No. 2;

THENCE easterly following the north limit of the said Highway No. 2 to the southwest angle of the Township Cemetery Plot in the Daniel Hawley Tract;

THENCE north following the west limit of the Township Cemetery Plot to the middle line of Fairchilds Creek;

THENCE following the middle line of Fairchilds Creek upstream to a point distant 121.92 metres measured northerly at right angles from the northerly limit of Highway No. 2;

THENCE westerly parallel with the north limit of Highway No. 2 to a point distant 121.92 metres easterly from the east limit of Papple Road;

THENCE northerly parallel to Papple Road to the south limit of the Toronto, Hamilton and Buffalo Railway;

THENCE southwesterly along the south limit of the said Railway to its point of intersection with the west limit of the King's Highway No. 403;

THENCE following the west limit of the said Highway No. 403 and also the existing City boundary and its extension to the north limit of Lynden Road;

THENCE westerly along the north limit of Lynden Road to the southwest angle of Lot 42, Concession II, being the existing City boundary;

THENCE following the existing City boundary to the south limit of Powerline Road;

THENCE westerly along the south limit of Powerline Road to a point distant 79.86 metres east of the eastern boundary of Francis Street;

THENCE northerly at right angles 117.65 metres to a point;

THENCE westerly parallel with the north limit of Powerline Road to a point distant 91.44 metres measured easterly at right angles from the east limit of the King's Highway No. 24;

THENCE northerly parallel with Highway No. 24 to a point, said point being drawn on a line at right angles from the said Highway No. 24 and measured 620.77 metres northerly along the centreline of said road from the south limit of Powerline Road;

THENCE westerly at right angles from the said Highway No. 24, 91.44 metres to the east limit of the said Highway;

THENCE southerly along the easterly limit of the said Highway to the south limit of Powerline Road;

THENCE westerly following the south limit of Powerline Road to the northeast angle of Lot 27, Concession II;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of Lot 27 to a point distant 435 metres measured northerly therealong from the southeasterly angle of the north half of the said Lot;

THENCE south $77^{\circ} 13' 30''$ west 160.078 metres to a point;

THENCE south $49^{\circ} 51' 20''$ west 169.588 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 90 metres to the westerly limit of Lot 27;

THENCE south $15^{\circ} 55' 30''$ east along the said westerly limit 100 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 403.665 metres to the westerly limit of Lot 26 in the said Concession II;

THENCE south $16^{\circ} 06'$ east along the westerly limit of the said Lot, 256.77 metres to the southwesterly angle of the north half of the said Lot 26;

THENCE southerly along the west limit of Lot 26 to the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway 403 to the north limit of the Canadian National Railway line;

THENCE northwesterly along the northerly limit of the said Railway to a line parallel with and distant 45.72 metres measured southerly at right angles from the southerly limit of Powerline Road;

THENCE westerly and parallel with the southerly limit of Powerline Road to a point on the westerly limit of Oak Park Road;

THENCE southerly along the westerly limit of Oak Park Road 76.20 metres to a point;

THENCE westerly parallel with the southerly limit of Powerline Road to the left bank of the Grand River facing downstream;

THENCE following the said left bank of the Grand River facing downstream through its various turnings to the existing City boundary and following the said boundary to a point that lies on the extension of the limit between Blocks 2 and 3 in the Kerr Tract, also being the existing City boundary;

THENCE following the existing City boundary southerly and westerly and continuing along the middle line of Oak Hill Drive to the southerly extension of the east limit of Jennings Road;

THENCE northerly along the east limit of Jennings Road to a point lying on the mid line of Concession IV;

THENCE westerly following the centre line of Concession IV to a point on the west limit of the Airport lands owned by the City of Brantford;

THENCE southerly along the west limit of the Airport lands and its extension to a point 121.92 metres south of the south limit of the King's Highway No. 53;

THENCE easterly parallel with Highway No. 53 to a point on the centre line in Lot 15, Concession V;

THENCE southerly parallel with the west limit of Lot 15 to a point on the northerly limit of Block 1 in the Kerr Tract;

THENCE easterly following the north limit of the Kerr Tract to the southeast angle of Lot 16, Concession V;

THENCE northerly along the east limit of Lot 16, Concession V to a point in the southerly limit of the King's Highway No. 53;

THENCE easterly along the southerly limit of the said Highway No. 53 to the westerly limit of Pleasant Ridge Road;

THENCE southerly along the west limit of Pleasant Ridge Road to the southerly limit of the Canadian National Railway right-of-way;

THENCE northeasterly along the southeasterly limit of the said Railway to the northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE southeasterly along the northeasterly limit of the said lands to the northwesterly limit of Block 5 in the Kerr Tract;

THENCE northeasterly along the northwesterly limit of the said Block 5 to the westerly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southeasterly along the southwesterly limit of the Ontario Water Resources described in Instrument numbers A37389 and A37439 to the northwesterly limit of Shellard Lane;

THENCE south $39^{\circ} 25'$ east to the southeasterly limit of Shellard Lane;

THENCE north $50^{\circ} 35'$ east along the said southeasterly limit to the westerly angle of lands described in Registered Instrument Number A163668;

THENCE south $63^{\circ} 11' 45''$ east along the southwesterly limit of the said lands 1,634.493 metres to the easterly limit of the lands of the Lake Erie and Northern Railway;

THENCE following the east limit of said railway to the easterly limit of Conklin Road;

THENCE southerly following the easterly limit of Conklin Road to the southerly limit of Mt. Pleasant Road;

THENCE easterly along the southerly limit of Mt. Pleasant Road 244.75 metres to a point;

THENCE south 37° 41 minutes east 489.45 metres to a point;

THENCE easterly in a straight line to the southwest angle of Registered Plan 966;

THENCE easterly following the southerly limit of said plan to the southeast angle of Registered Plan 966;

THENCE northerly following the easterly limit of said plan and its extension to the middle line of the Grand River;

THENCE following the middle line of the Grand River downstream through all its turnings to a point distant 152.4 metres measured southerly at right angles from the southerly limit of Blossom Avenue;

THENCE following a line parallel with and distant 152.4 metres from the southerly limit of Blossom Avenue and its proposed extension from Mt. Pleasant Road to Pleasant Ridge Road to a point on the westerly limit of Pleasant Ridge Road;

THENCE following a line parallel with and distant 152.4 metres from the southerly limit of Arthur Road to a point on the east limit of the King's Highway No. 24;

THENCE northerly following the easterly limit of the said Highway No. 24 to the northerly limit of Robinson Road;

THENCE easterly along the northerly limit of Robinson Road to the easterly limit of Pottruff Road;

THENCE northerly along the easterly limit of Pottruff Road to the southerly limit of Powerline Road;

THENCE easterly following the south limit of Powerline Road to the southwest angle of Lot 24, Concession I;

THENCE northerly along the west limit of Lot 24 to the point of commencement.

SAVING AND EXCEPTING all those lands described as Lot 22 in Registered Plan 594.

SCHEDULE D

MUTUAL PLANNING ADVISORY COMMITTEE AREA

a) NORTH

COMMENCING at the northeast angle of Lot 40, Concession II;

THENCE westerly along the south side of Powerline Road to a point 79.86 metres easterly of the easterly limit of Francis Street;

THENCE northerly at right angles 117.65 metres to a point;

THENCE westerly parallel with the north limit of Powerline Road to a point distant 91.44 metres from the easterly limit of the King's Highway No. 24;

THENCE northerly and parallel with the said Highway No. 24 to a point, the said point being drawn on a line at right angles from the said Highway No. 24 distant 620.27 metres measured northerly from the centreline of said road from the south limit of Powerline Road;

THENCE westerly at right angles from the said Highway No. 24, 91.44 metres to the easterly limit of said Highway;

THENCE southerly along said easterly limit to the southerly limit of Powerline Road;

THENCE westerly following the southerly limit of Powerline Road to the northwest angle of Lot 28 in Concession II;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of Lot 27 to a point distant 435.00 metres measured northerly therealong from the southeasterly angle of the north half of the said Lot;

THENCE south $77^{\circ} 13' 30''$ west 160.078 metres to a point;

THENCE south $49^{\circ} 51' 20''$ west 169.588 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 90.00 metres to the westerly limit of Lot 27;

THENCE south $15^{\circ} 55' 30''$ east along the said westerly limit 100.00 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 403.665 metres to the westerly limit of Lot 26 in the said Concession II;

THENCE south $16^{\circ} 06'$ east along the westerly limit of the said Lot, 256.77 metres to the southwesterly angle of the north half of the said Lot 26;

THENCE easterly to the southeast angle of the north half of Lot 28 in Concession II;

THENCE easterly following the existing City boundary to a point distant 336.71 metres more or less west of the western limit of the King's Highway No. 24 as widened;

THENCE southerly and parallel with the westerly limit of Lot 30 in Concession II, 314.0 metres more or less to a point;

THENCE easterly on a bearing of north 77 degrees 00 minutes east 140.74 metres to a point;

THENCE northerly on a bearing of north 15 degrees 39 minutes west 60.56 metres to a point;

THENCE easterly on a bearing of north 76 degrees 53 minutes east 100.22 metres to a point;

THENCE northerly on a bearing of north 14 degrees 25 minutes west 19.93 metres to a point;

THENCE easterly on a bearing of north 77 degrees 4 minutes east 95.28 metres more or less to a point on the westerly limit of the said Highway No. 24 as widened, said point being in the boundary between the City of Brantford and the Township of Brantford;

THENCE southerly and easterly following the existing City Boundary along its various courses and distances to its point of intersection with the southeasterly angle of the Rosewood Garden Subdivision Plan being the southeasterly angle of Lot 10, Registered Plan 1521;

THENCE following the former City-Township boundary prior to the 1974 annexation to its point of intersection with the existing City boundary (Garden Avenue);

THENCE continuing southerly along the existing boundary to its point of intersection with the centreline of the Grand River;

THENCE along the middle line of the Grand River downstream to its point of intersection with the boundary between the Township of Onondaga and the Township of Brantford;

THENCE following said boundary through its various courses and distances to a point on the south limit of Old Onondaga Road, said point being on a line drawn at right angles from Old Onondaga Road and intersecting the northerly limit of Old Onondaga Road and its intersection with the westerly limit of an unnamed road allowance extending northerly into the John Westbrook Grant from the Old Onondaga Road;

THENCE northerly at right angles from the Old Onondaga Road to the point of intersection of the unnamed road allowance and the northerly limit of Old Onondaga Road;

THENCE north 10 degrees east 122.53 metres to a point;

THENCE south 77 degrees 23 minutes east 96.50 metres to a point;

THENCE north 26 degrees 45 minutes east 282.21 metres to a point;

THENCE north 62 degrees 48 minutes west 251.49 metres to a point;

THENCE north 63 degrees 40 minutes west 249.37 metres to a point;

THENCE north 64 degrees 6 minutes west 39.11 metres to a point;

THENCE north 25 degrees 54 minutes east to a point on the limit of the Grand River Conservation Authority Flood Plain for Fairchilds Creek;

THENCE following said limit northeasterly to its point of intersection with the westerly limit of Brant School Road;

THENCE following the westerly limit of Brant School Road and its projection to the north side of the King's Highway No. 2;

THENCE easterly following the north limit of the said Highway No. 2 to the southwest angle of the Township Cemetery Plot in the Daniel Hawley Tract;

THENCE north following the west limit of the Township Cemetery Plot to the middle line of Fairchilds Creek;

THENCE following the middle line of Fairchilds Creek upstream to a point distant 121.92 metres measured northerly at right angles from the northerly limit of the said Highway No. 2;

THENCE westerly parallel to the north limit of King's Highway No. 2 to a point distant 121.92 metres easterly from the easterly limit of Papple Road;

THENCE northerly parallel to Papple Road to the south limit of the Toronto, Hamilton and Buffalo Railway;

THENCE southwesterly along the southerly limit of the said Railway to the westerly limit of the King's Highway No. 403;

THENCE following the west limit of the said Highway 403 and also the existing City boundary and its extension to the north limit of Lynden Road;

THENCE westerly along the northerly limit of Lynden Road to the existing City boundary;

THENCE following said boundary to the point of commencement.

b) NORTHWEST

COMMENCING at the intersection of a line between Lots 25 and 26 in Concession II and the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway No. 403 to the northerly limit of the Canadian National Railway right-of-way;

THENCE northwesterly along the northerly limit of the said Canadian National Railway to its point of intersection with a line drawn at right angles from the south limit of Powerline Road and distant 45.72 metres measured east-westerly therefrom;

THENCE westerly and parallel to the south limit of Powerline Road to a point on the west limit of Oak Park Road;

THENCE southerly along the west limit of Oak Park Road 76.2 metres to a point;

THENCE westerly parallel with the southerly limit of Powerline Road to the left bank of the Grand River facing downstream;

THENCE following the left bank of the Grand River downstream through its various turnings to its point of intersection with the existing City boundary being also the limit between Lots 25 and 26 in Concession III;

THENCE northerly along said boundary to the point of commencement.

c) SOUTHWEST

COMMENCING at a point in the mid line of the Grand River and its intersection with the extension of the limit between Blocks 2 and 3 in the Kerr Tract, also being the existing City boundary;

THENCE following the existing City boundary southerly and westerly and continuing along the middle line of Oak Hill Drive to the southerly extension of the east limit of Jennings Road;

THENCE northerly along the east limit of Jennings Road to a point lying on the mid line of Concession IV;

THENCE westerly following the centre line of Concession IV to a point on the west limit of the Airport lands owned by the City of Brantford;

THENCE southerly along the west limit of the Airport lands and its extension to a point 121.92 metres south of the south limit of the King's Highway No. 53;

THENCE easterly parallel with Highway No. 53 to a point on the centre line in Lot 15, Concession V;

THENCE southerly parallel with the west limit of Lot 15 to a point on the northerly limit of Block 1 in the Kerr Tract;

THENCE easterly following the north limit of the Kerr Tract to the southeast angle of Lot 16, Concession V;

THENCE northerly along the east limit of Lot 16, Concession V to a point in the southerly limit of the King's Highway No. 53;

THENCE easterly along the southerly limit of the said Highway No. 53 to the westerly limit of Pleasant Ridge Road;

THENCE southerly along the west limit of Pleasant Ridge Road to the southerly limit of the Canadian National Railway right-of-way;

THENCE northeasterly along the southeasterly limit of the said Railway to northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE southeasterly along the northeasterly limit of the said lands to the northwesterly limit of Block 5 in the Kerr Tract;

THENCE northeasterly along the northwesterly limit of the said Block 5 to the westerly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southeasterly along the southwesterly limit of the Ontario Water Resources described in Instrument Number A37389 and A37439 to the northwesterly limit of Shellard Lane;

THENCE south $39^{\circ} 25'$ east to the southeasterly limit of Shellard Lane;

THENCE north $50^{\circ} 35'$ east along the said southeasterly limit to the westerly angle of lands described in Registered Instrument Number A163668;

THENCE south $63^{\circ} 11' 45''$ east along the southwesterly limit of the said lands 1,634.493 metres to the easterly limit of the lands of the Lake Erie and Northern Railway;

THENCE following the easterly limit of said railway to its point of intersection with the easterly limit of Conklin Road;

THENCE southerly following the east limit of Conklin Road to the southerly limit of Mt. Pleasant Road;

THENCE easterly along the southerly limit of Mt. Pleasant Road 244.75 metres to a point;

THENCE south 37 degrees 41 minutes east 489.45 metres to a point;

THENCE easterly in a straight line to the southwest angle of Registered Plan 966;

THENCE easterly following the southern limit of said plan to the southeast angle of Registered Plan 966;

THENCE northerly following the east limit of said plan and its extension to the middle line of the Grand River;

THENCE following the existing City boundary to the north limit of Bell Lane;

THENCE northwesterly in a straight line to the point of intersection of the Canadian National Railway right-of-way and Colborne Street West;

THENCE due north to the middle line of the Grand River;

THENCE following the middle line of the Grand River upstream to the point of commencement.

And together with all those lands described as Lot 22 in Registered Plan 594.

An Act respecting
the City of Brantford, the Township
of Brantford and the County of Brant

1st Reading

June 12th, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act respecting the City of Brantford, the Township of
Brantford and the County of Brant**

**THE HON. T. L. WELLS
Minister of Intergovernmental Affairs**

(Reprinted as amended by the General Government Committee)

EXPLANATORY NOTES

The purpose of this Bill is to provide for the annexation of the lands referred to in sections 2 and 7 of the Bill to the City of Brantford under an agreement reached by the councils of the City of Brantford, the Township of Brantford and the County of Brant.

SECTION 1. Self-explanatory.

SECTION 2. This section provides for the annexation of lands in 1981, 1991 and 1996.

BILL 120

1980

An Act respecting the City of Brantford, the Township of Brantford and the County of Brant

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "annexed area" means the lands annexed to the City of Brantford under subsection 1 of section 2;
- (b) "City" means The Corporation of the City of Brantford;
- (c) "County" means The Corporation of the County of Brant;
- (d) "Minister" means the Minister of Intergovernmental Affairs;
- (e) "Municipal Board" means the Ontario Municipal Board;
- (f) "Township" means The Corporation of the Township of Brantford.

2.—(1) On the 1st day of January, 1981, the portions of the Township described in Schedule A are annexed to the City. Annexation

(2) On the 1st day of January, 1991, the portions of the Township being composed of approximately 50 acres in Lot 18, Concession II north of and contiguous to Highway 403 and approximately 50 acres in Lot 19, Concession II north of and contiguous to Highway 403, or such other lands as the City and Township may agree upon, as described by an order of the Lieutenant Governor in Council to be made in the year 1990, are annexed to the City. Subsequent
annexation

(3) The determination of the lands to be annexed under subsection 2 shall be made jointly by agreement among the City, the Agreement

County and the Township by the 1st day of July, 1990, and, following such agreement, the Lieutenant Governor in Council shall, by order, annex the lands agreed upon by the City, the Township and the County.

Order in
council

(4) If the City, the Township and the County are unable to agree on the lands to be annexed under subsection 2, the Lieutenant Governor in Council shall, by order, annex such lands to the City as the Lieutenant Governor in Council may consider appropriate.

Subsequent
annexation

(5) On the 1st day of January, 1996, the portions of the Township described in Schedule B not previously annexed under subsection 2, are annexed to the City.

Application of
R.S.O. 1970,
c. 284,
ss. 5, 336

3.—(1) Sections 5 and 336 of *The Municipal Act* apply to the City in respect of the lands described in Schedule B.

Roads and
water

(2) On and after the 1st day of January, 1991, the City may provide roads, piped water and sewer services to the lands to be annexed to the City under subsection 5 of section 2.

Limitation

(3) Subject to subsection 2, the City may not extend piped water or sewer services beyond its boundaries without the consent of the Township or unless so ordered by the Province of Ontario under any general Act.

Official
plan
designations

4.—(1) The portions of the Township described in Schedule C shall be designated by the Township in its official plan, and in subsequent amendments thereto, so as to ensure the preservation of farmland, the provision of a municipal water supply and the development of mineral resource extraction and for uses related to agriculture and mineral resource extraction.

Official
plan
amendments

(2) The Township shall prepare and, subject to the agreement of the City and the County, shall adopt and submit to the Minister of Housing an amendment to its official plan for the area referred to in subsection 1 by the 1st day of September, 1980.

Idem

(3) The Township, subject to the agreement of the City and the County, and the City, subject to the agreement of the Township and the County, shall prepare, adopt and submit to the Minister of Housing by the 1st day of September, 1980 amendments to their official plans for the portions of the area described in Schedule D under their respective jurisdictions.

Idem

(4) The Township shall prepare, in consultation with the City and County, and shall adopt and submit, after consultation with the City and County, to the Minister of Housing in accordance with *The Planning Act* by the 1st day of September, 1981 an

R.S.O. 1970,
c. 349

SECTION 3. This section enables the City to provide municipal services to the lands that will be annexed in 1991 and 1996.

SECTION 4. This section requires that amendments be made to the official plan of the Township. Under subsection 1, the lands in the Township adjacent to the annexed area and described in Schedule C will be designated in the official plan for rural uses.

The area described in Schedule D is a joint planning area of the City and the Township and the official plans of the City and the Township in respect thereof are to be prepared subject to the agreement of the City, the Township and the County. The official plan for the remainder of the Township is to be amended in consultation with the City and the County.

The official plan amendments for the areas described in Schedules C and D will be submitted to a hearing officer for a public hearing following which the recommendation of the hearing officer and recommendation of the Minister of Housing will be submitted to the Lieutenant Governor in Council who will approve the appropriate official plan amendments. The official plan amendments for the remainder of the Township may be approved under *The Planning Act* or at the request of the Township and with the concurrence of the Minister of Housing may be submitted to a hearing officer, in which case the procedures respecting the areas described in Schedules C and D will apply.

amendment to its official plan for the portions of the Township not described in Schedules C and D.

(5) The City, the Township and the County may appoint one or more arbitrators to decide the detailed definition of land uses in the official plan amendments to be submitted in accordance with subsections 2 and 3. Arbitration

(6) If the City, the Township and the County cannot agree on the detailed definition of land uses referred to in subsection 5 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister of Housing shall appoint a hearing officer under subsection 7. Idem

(7) The Minister of Housing shall appoint one or more hearing officers to hear representations and make recommendations, having regard to the objective referred to in subsection 1, concerning the proposed designations for the areas included in the official plan amendments to be submitted in accordance with subsections 2 and 3, and the Minister of Housing may, upon the request of the Township and if he considers it appropriate, appoint one or more hearing officers to hear representations and make recommendations concerning the proposed designations for the areas included in the official plan amendment submitted in accordance with subsection 4, and, following a hearing under rules of procedure adopted by the hearing officer or officers, the recommendations of the hearing officer or officers shall be made to the Minister of Housing concerning the proposed official plan or plans and copies of the recommendations shall be filed with the clerks of the City, the Township and the County and public notice of such filing shall be given by the clerk of each municipality. Hearing officers

(8) Following the recommendations of the hearing officer or officers, the Minister of Housing shall make a recommendation to the Lieutenant Governor in Council as to whether the report of the hearing officer be approved, rejected or varied, and if the recommendation of the Minister of Housing to the Lieutenant Governor in Council is other than that the report of the hearing officer be approved, then the Minister of Housing shall give public notice to this effect, state his intentions and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. Approval of recommendations

(9) Where the Minister of Housing makes a recommendation under subsection 8 respecting the areas referred to in subsections 2 and 3, he shall have regard to the objective set out in subsection 1. Objective to be considered

(10) The City, the Township and the County shall not make representations under subsections 7 and 8 that are contrary to an agreement under subsection 1 or 3, or that are contrary to the decision of an arbitrator under subsection 5. Estoppel

Approval
of official
plans

(11) The Lieutenant Governor in Council having regard to the objective set out in subsection 1 may, by order, approve the proposed amendments to the official plans or may approve them with such modifications as the Lieutenant Governor in Council, following consultation with the municipalities, considers desirable, and thereupon the official plans, as amended, are, for the purposes of every Act, the official plans for the municipalities and portions of municipalities affected thereby.

Mutual
Planning
Advisory
Committee

(12) The City, the Township and the County shall establish a consultative body, to be known as the "Mutual Planning Advisory Committee", to advise the municipalities on planning matters in the portions of the Township and City described in Schedule D.

Amendments
to official
plan

R.S.O. 1970,
c. 349

(13) After the approval of the official plan amendments by the Lieutenant Governor in Council under subsection 11 with respect to the lands described in Schedule C, amendments may be made to the official plan of the Township in accordance with *The Planning Act* to provide for any land use designation with respect to the said lands, but no amendment may be made that provides for land use designations other than those referred to in subsection 1 unless the City, the Township and the County agree to the proposed land use designations.

City's power
to apply to
O.M.B. for
annexations
restricted

5.—(1) The City shall not apply to the Municipal Board for the annexation of any lands in the Township before the 1st day of January, 2004 unless the Township agrees to such annexation.

Exceptions

(2) Notwithstanding subsection 1 but subject to subsection 4, the City may apply to the Municipal Board at any time to annex,

(a) lands within the area described in Schedule C or D, other than lands that are the subject of an agreement under clause *c* of subsection 2 of section 8, to which the Township requests that the City extend piped water or sewer services or to which the Province of Ontario under any general Act requires the City to extend such services;

(b) lands within the area described in Schedule C or D,

(i) for which a draft plan of subdivision to which the Minister of Housing has given approval or draft approval under section 33 of *The Planning Act*, or

(ii) in respect of which a restricted area by-law or by-law amendment which takes effect under section 35 of *The Planning Act* or an approval granted by the Township or a local board thereof,

SECTION 5. This section restricts the City's power to annex lands.

SECTION 6. This section provides for the election of the councils and the public utilities commissions of the City and Township, The Brant County Board of Education and The Brant County Separate School Board.

permits development exceeding that provided for in the official plan amendments submitted under subsections 2 and 3 of section 4 by any of the following,

- (iii) residential development, other than farm dwellings, consisting of more than twenty adjacent or proximate dwelling units, or development consisting of more than twenty adjacent or proximate residential lots created as a result of consents under section 29 of *The Planning Act* or by a plan or plans of subdivision under section 33 of *The Planning Act*,
 - (iv) commercial development of a total of more than 930 square metres of gross floor area on one parcel of land or on two or more adjacent parcels,
 - (v) industrial development on a total of more than four hectares of land capable of being utilized for industrial purposes on one parcel of land or on two or more adjacent parcels; and
- (c) such other lands lying between lands annexed under this subsection and the closest logical boundary of the City that, in the opinion of the Municipal Board, are required to provide an appropriate boundary between the City and the Township.

R.S.O. 1970,
c. 349

(3) The County and the Township shall not oppose any annexation application made under clause *a* of subsection 2.

Opposition by
County and
Township
prohibited

(4) The City, the Township and the County may from time to time agree that no application may be made under subsection 2 during the period set out in the agreement with respect to lands described therein and the City shall not apply to the Municipal Board during any such period to annex the described lands.

Agreements
not to
annex
lands

6.—(1) For the term of office beginning on the 1st day of December, 1980, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and shall be the head of the council, and eleven members elected by wards.

Composition
of City
council

(2) Subject to subsection 4, for the term of office beginning on the 1st day of December, 1982 and for subsequent terms of office, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and who shall be the head of the council, and such number of members elected by wards as the Minister by order determines, following representations by the City as to the composition of council.

Idem

Elections in
1980 and 1982

(3) For the purposes of the elections in the years 1980 and 1982, the Minister may, by order, divide the City and annexed area into wards and make provision for the respective number of members of the council and the public utilities commission of the City to be elected in the respective wards, and the wards provided for the elections in the year 1982 shall remain in effect until altered by the Municipal Board.

Idem
1977, c. 62

(4) Notwithstanding *The Municipal Elections Act, 1977*, the Minister may, by order, provide for the holding of the election in the year 1980 of the members of the councils of the City and the Township, The Public Utilities Commission of the City of Brantford, the Hydro-Electric Commission of the Township of Brantford, The Brant County Board of Education and The Brant County Separate School Board, including nominations, polling days, qualifications of electors, polling places, the appointment of returning officers, preparation of polling lists, the terms of office of the members and any other matters considered necessary in respect of the election.

Application of
R.S.O. 1970,
c. 284, s. 28

(5) If the wards provided for the elections in the year 1982 are altered by the Municipal Board, the council of the City shall be composed in accordance with section 28 of *The Municipal Act*.

Public
Utilities
Commission
1944, c. 72
R.S.O. 1970,
c. 390

(6) Notwithstanding *The City of Brantford Act, 1944* and section 42 of *The Public Utilities Act*, for the term of office beginning the 1st day of December, 1980, The Public Utilities Commission of the City of Brantford shall be composed of the mayor of the City and six members, elected by wards.

Idem

(7) For the term of office beginning the 1st day of December, 1982, the Minister may, by order, following representations by the City and The Public Utilities Commission of the City of Brantford as to the composition of the Commission, determine the composition of the Commission and the composition of the Commission continues as set out in the order until such time as the council of the City, by by-law, provides that *The City of Brantford Act, 1944* shall apply.

1944, c. 72

Transportation
and service
corridor

7.—(1) The City, the Township and the County may by agreement make recommendations with respect to, and the Lieutenant Governor in Council shall, by order, do whatever the Lieutenant Governor in Council considers necessary for, the provision of a transportation and service corridor to link the portion of the annexed area lying to the north-west of the City with the portion of the annexed area lying to the south-west of the City, and, notwithstanding the generality of the foregoing, may authorize the City to acquire any lands that the Lieutenant Governor in Council considers necessary for such purpose.

SECTION 7. This section provides for the establishment of a transportation and service corridor to link areas annexed to the City. The section also provides for the annexation of lands that are considered appropriate in connection with the corridor.

SECTION 8. This section provides for various cost-sharing agreements respecting the matters set out in the section.

(2) The City, the Township and the County may appoint one or more arbitrators to make recommendations concerning the limits of the corridor referred to in subsection 1 and the desirability of annexing the area or any part thereof to the City. Arbitration

(3) If the City, the Township and the County are unable to agree on the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators by the 30th day of September, 1981, the Minister shall appoint one or more arbitrators to assist in the resolution of the issues that have not been resolved. Idem

(4) The Lieutenant Governor in Council may, by order, annex any or all of the corridor area to the City. Orders in council

(5) The Lieutenant Governor in Council shall, by order, annex to the City such area as is agreed upon by the City, the Township and the County under this section. Idem

(6) Before an order is made under subsection 4, the Minister shall cause public notice to be given and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. Public notice

(7) The Lieutenant Governor in Council may, by order, alter the boundaries of the lands described in Schedules C and D to conform with the limits of the corridor area. Amendment of Schedules

8.—(1) The City and the County may enter into agreements to determine the municipal contributions to the Brantford Suburban Roads Commission and the sharing of costs in respect of suburban roads, the Brant Planning Board, the Children's Aid Society of Brant, homes-for-the-aged, rescue truck services, assisted housing, general welfare, hospital debt, health, emergency measures and a fire radio alarm system. Cost sharing agreements

(2) The City and the Township may enter into agreements to, Idem

- (a) share municipal costs attributable to the use of the City of Brantford Public Library and the City landfill site facilities;
- (b) determine the use, maintenance and disposition by the Township of the Shellard Lane well and related water lines;
- (c) define areas in the Township to be supplied with water by the City and establish the rates for such water; and
- (d) define areas in the City to be supplied with water by the Township and establish the rates for such water.

- Arbitration (3) The City, the Township and the County may appoint one or more arbitrators, whose decision shall be final, to decide any of the matters referred to in subsections 1 and 2.
- Idem (4) If the City, the Township or the County are unable to agree on any of the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide any of the issues which have not been resolved.
- Assent of electors not required (5) Agreements reached for sharing costs shall not require the assent of the electors.
- Application of R.S.O. 1970, c. 201 (6) Sections 66, 67 and 68 of *The Public Transportation and Highway Improvement Act* do not apply to agreements reached under this section in respect of suburban roads and the Brantford Suburban Roads Commission, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.
- Application of 1978, c. 85 (7) Subsection 6 of section 8 of *The Child Welfare Act, 1978* does not apply to agreements reached under this section in respect of the Children's Aid Society of Brant, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.
- Order in council (8) The Lieutenant Governor in Council may, by order, approve or reject the agreements referred to in subsections 6 and 7, and following the approval of any agreement, the sharing of costs as approved becomes effective on the date specified in the order.
- Transitional rates **9.—**(1) The Minister may provide from time to time, by order, that in the years 1981, 1982, 1983, 1984, 1985 and 1986, and in the manner specified in the order, that the council of the City shall levy and impose on the whole of the annexed area and on the whole of the remainder of the City rates of taxation for general purposes and rates and charges for special purposes that are different than the rates and charges that would have been levied or imposed for such purposes but for the provisions of this section.
- Rural areas (2) The City may provide for rates of taxation for general purposes and rates and charges for special purposes in defined areas of the rural parts of the annexed area lower than the rates generally applicable in the City to reflect the extent to which rural areas do not receive City services, and the rates may vary among the defined areas.

SECTION 9. This section provides for transitional rates and area rating in the areas to be annexed in 1981.

SECTION 10. This section provides for the method of calculating the surplus for 1980 for which allowance is to be made, or the operating deficit to be provided for, in the estimates for the City for 1981.

SECTION 11. This section provides for the allocation of any surplus or deficit against assessment relating to such surplus or deficit.

(3) The level, duration, boundaries and conditions of the area rating authorized under subsection 2 shall be determined by a committee consisting of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint, and the determination of the committee shall be effective upon the unanimous ratification by the councils of the municipalities. Determination of area rating

(4) If the committee cannot agree on any of the issues which it is required to determine or if the councils of the municipalities do not ratify the determination of the committee, the councils may appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues. Arbitration

(5) If the councils cannot agree on the appointment of an arbitrator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues. Idem

(6) The Ministry of Revenue shall in the years 1980 and 1981 assess real property in the annexed area on the same basis as the assessment of real property in the Township, and the special assessment roll prepared for the annexed area in accordance with this provision shall be used for the fixing and levying of rates of taxation by the council of the City in the years 1981 and 1982. Assessment in annexed area

10.—(1) For the purposes of subsection 2 of section 307 of *The Municipal Act*, the surplus of the previous year for which allowance is to be made, or the operating deficit to be provided for, in the estimates of the council of the City for the year 1981 shall be the aggregate of the audited surplus or audited operating deficit of the City and the portions of the audited surplus or audited operating deficit of the Township attributable to the annexed area. Estimates R.S.O. 1970, c. 284

(2) For the purposes of subsection 1, the audited surplus or audited operating deficit attributable to the annexed area shall be an amount that is the same proportion of the audited surplus or audited operating deficit of the Township that the amount of the assessment of the annexed area is of the total amount of the assessment of the Township, according to the 1980 assessment rolls as returned to the clerks of the City and Township. Calculation of audited surplus, deficit

11.—(1) In this section, “surplus or operating deficit” includes any reserves provided for under subsection 2 of section 307 of *The Municipal Act* other than reserves established in connection with the employment of officers or servants by the City or the Township. Interpretation

(2) The audited surplus or audited operating deficit of the Township or the City at the 31st day of December, 1980 shall accrue to the credit of or become a charge on the assessment Allocation of surplus or deficit

supporting such surplus or operating deficit and shall be provided for by adjustment of the tax rate over a period not exceeding five years from the 1st day of January, 1981.

Assets and liabilities,
County roads

12.—(1) All the assets and liabilities of the Township attributable to an area annexed to the City under this Act and the County roads in an area so annexed become assets and liabilities of the City on the effective date of the annexation without compensation.

Exceptions

(2) Notwithstanding subsection 1, the Tranquility Fire Hall and Community Centre shall remain an asset of the Township until such time as it ceases to be used by the Township for the purposes for which it was used on the 1st day of April, 1980, and the Shellard Lane well and related water lines shall remain assets of the Township until such time as the Township and the City have reached agreement on the ultimate disposition of the well and water lines.

Arbitration
re assets and liabilities

13.—(1) In the year in which an annexation occurs under section 2 or 7 of this Act, the Minister shall appoint committees of arbitrators for the purpose of determining the assets and liabilities of the Township attributable to the lands annexed and the disposition, including the physical possession, of the assets and liabilities, including reserve funds, of the Township attributable to such lands.

Composition
of arbitration
committees

(2) Each committee shall consist of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint.

Provisional
determination

(3) Before the 31st day of December of the year in which the annexation occurs, the committee shall, where appropriate, make a provisional determination of the disposition of the known assets, liabilities and reserve funds of the Township and the disposition shall become operative from the 1st day of January of the following year.

Final
determination

(4) As soon as possible thereafter, the committee, where appropriate, shall make a final determination of the disposition of assets, liabilities and reserve funds as at the 31st day of December of the year in which the annexation occurs together with the determination of any financial adjustments that may be necessary.

Notice of
determination
deemed
agreement

(5) The final determination made under subsection 4 shall be forwarded forthwith to the clerks of the municipalities concerned and the Municipal Board, and unless the council of the City, Township or County notifies the Municipal Board in writing within thirty days of the mailing of such determination that it

SECTION 12. This section vests assets and liabilities attributable to areas annexed under this Bill.

SECTION 13. This section provides for the appointment of committees of arbitrators to identify and provide for the disposition of assets and liabilities attributable to an area annexed under this Bill.

SECTIONS 14-16. Self-explanatory.

SECTION 17. This section confirms the validity of the annexation negotiations and agreement that preceded the introduction of this Bill.

SECTIONS 18, 19. Self-explanatory.

objects to the determination, such determination shall, for the purposes of clause *a* of subsection 11 of section 14 of *The Municipal Act*, be deemed to be agreed upon by such municipalities.

R.S.O. 1970,
c. 284

(6) Notwithstanding the provisions of section 11 and this section, the Minister may prescribe the period over which any adjustments and settlements made under section 11 or this section are to be made.

Proviso

14.—(1) Every by-law of the Township and the County as the by-law exists on the 31st day of December, 1980 shall remain in force in the annexed area and may be amended or repealed by the council of the City.

Continuation
of by-laws

(2) Where the Township or the County has commenced procedures to enact a by-law that, prior to its enactment, requires the approval of any minister of the Crown, any Provincial Ministry, the Municipal Board or any Provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1980, then the council of the City shall be entitled to continue the procedure to finalize such by-law of the Township or the County in so far as it pertains to the City, and the provisions of subsection 1 apply with necessary modifications to any such by-law.

Idem

15. Where the Minister or the Lieutenant Governor in Council is given the power to make an order under this Act, the Minister or the Lieutenant Governor in Council, respectively, may appoint such arbitrators or other persons as is considered appropriate to assist in the determination of such matters.

Appointment
of arbitrators
and advisors

16. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that in the Minister's opinion are considered necessary or advisable to carry out effectively the purposes of this Act.

General

17. The City, the Township and the County and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter into the Brantford-Brant Local Government Pilot Project Agreement entered into by the municipalities in April, 1980.

Brantford-
Brant
Local
Government
Pilot
Project
Agreement

18. The Lieutenant Governor in Council may, at any time prior to the 1st day of January, 1987, by order, on such terms and conditions as the Lieutenant Governor in Council considers appropriate, provide for payments to be made to the City, the Township and the County to achieve any of the purposes of this Act.

Grants

Conflict

19. In the event of any conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

Commence-
ment

20. This Act comes into force on the day it receives Royal Assent.

Short title

21. The short title of this Act is *The Brantford-Brant Annexation Act, 1980*.

SCHEDULE A

AREAS TO BE ANNEXED TO THE CITY OF BRANTFORD ON THE 1ST DAY OF JANUARY, 1981

The portions of the Township of Brantford described as follows:

FIRSTLY, part of the Township of Brantford, commencing at a point in the northerly boundary of the City of Brantford and the westerly limit of Lot 28 in Concession II of the Township of Brantford;

THENCE northerly along the westerly limit of the said Lot 28 to the northerly limit of the said Lot 28, Concession II;

THENCE easterly along the northerly limits of Lots 28 to 33 inclusive in Concession II, to the easterly limit of said Lot 33 in the said Concession II;

THENCE southerly along the easterly limit of Lot 33 and thereafter following the boundaries between the Township of Brantford and the City of Brantford to the point of commencement;

SECONDLY, part of the Township of Brantford, commencing at the intersection of the westerly boundary of the City of Brantford and the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway No. 403 to the left bank of the Grand River facing downstream;

THENCE southeasterly along the said left bank of the Grand River to the westerly boundary of the City of Brantford;

THENCE northerly along the westerly boundary of the City of Brantford to the point of commencement;

THIRDLY, part of the Township of Brantford, commencing at the southwesterly angle of Lot 42 in Concession II of the said Township;

THENCE easterly along the northerly limit of the road allowance between Concessions II and III to the easterly limit of the road allowance between Lots 42 and 43 in the said Township;

THENCE southerly along the easterly limit of the road allowance between Lots 42 and 43 to the northerly limit of the right of way of the Canadian National Railway;

THENCE westerly and northerly following the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

FOURTHLY, part of the Township of Brantford commencing at the intersection of the southerly boundary of the City of Brantford and the easterly limit of the right-of-way of the abandoned Lake Erie and Northern Railway;

THENCE southerly along the said eastern limit to the most westerly angle of a parcel of land designated as Part I on a Reference Plan deposited in the Land Registry Office for the Registry Division of Brant (No. 2) as Plan 2R-399;

THENCE north 63° 11' 45" west along the south western limit of the lands described in Registered Instrument Number A163668, a distance of 1,634.493 metres to the southeasterly limit of Shellard Lane;

THENCE south $50^{\circ} 35'$ west along the southeasterly limit of Shellard Lane 110.96 metres to the southeasterly production of the southerly limit of the lands described in Registered Instrument Number A37439 for the Township of Brantford;

THENCE westerly to and along the southerly limit of the lands of the said Ontario Water Resources to the easterly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southwesterly and northwesterly along the southerly limits of the last mentioned lands to the southeasterly limit of Block 4 in the Kerr Tract in the Township of Brantford;

THENCE southwesterly along the southeasterly limit of the said Block 4 to the northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE northwesterly along the northeasterly limit of the said lands of A. and M. House and the northwesterly prolongation thereof to the northwesterly limit of the right-of-way of the Canadian National Railway;

THENCE northeasterly along the northwesterly limit of the said Railway right-of-way to the westerly limit of the lands of Bruce Patterson described in Registered Instrument Number 39657;

THENCE northerly along the westerly limit of the lands of Bruce Patterson and the northerly prolongation thereof to the centre line of the King's Highway No. 53;

THENCE easterly along the centre line of the said Highway No. 53 to the westerly boundary of the City of Brantford;

THENCE southeasterly along the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

FIFTHLY, part of the Township of Brantford, commencing at the intersection of the easterly limit of Johnson Road and the southerly limit of the King's Highway No. 403;

THENCE easterly along the southerly limit of the said Highway No. 403 to the southerly limit of the right-of-way of the Toronto, Hamilton and Buffalo Railway;

THENCE westerly along the southerly limit of the said Railway right-of-way to the northerly prolongation of the easterly limit of Lot 15 as shown on Registered Plan No. 29;

THENCE southerly to and along the easterly limit of the said Lot 15 to the southeasterly angle of the said Lot 15;

THENCE southerly along the southerly prolongation of the easterly limit of the said Lot 15 to the middle of the main channel of the Grand River;

THENCE westerly along the middle of the said channel to the southeasterly angle of the City of Brantford;

THENCE northeasterly following along the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

SIXTHLY, part of Lots 26 and 27 in Concession II of the said Township of Brantford which, premising that all bearings herein are astronomic and referred to the bearing of the southern limit of the northern half of the said Lots being $N. 77^{\circ} 13' 30'' E.$ shown on a Reference Plan deposited in the Land Registry Office for the

Registry Division of Brant (No. 2) as Plan 2R-1324, more particularly described as follows:

COMMENCING at the southeasterly angle of the north half of Lot 27 in Concession II of the Township of Brantford;

THENCE south $77^{\circ} 13' 30''$ west along the southerly limit of the north half of Lots 27 and 26 a distance of 811.338 metres to the southwesterly angle of the north half of Lot 26;

THENCE north $16^{\circ} 06'$ west along the said Lot a distance of 256.770 metres;

THENCE north $77^{\circ} 13' 30''$ east 403.665 metres to a point in the western limit of the said Lot 27;

THENCE north $15^{\circ} 55' 30''$ west 100 metres to a point;

THENCE north $77^{\circ} 13' 30''$ east 90 metres to a point;

THENCE north $49^{\circ} 51' 20''$ east 169.588 metres to a point;

THENCE north $77^{\circ} 13' 30''$ east 160.078 metres to a point in the easterly limit of the said Lot 27;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of the said Lot, a distance of 435 metres to the point of commencement.

SCHEDULE B

AREAS TO BE ANNEXED TO THE CITY OF BRANTFORD ON THE 1ST DAY OF JANUARY, 1996

The portion of the Township of Brantford described as follows:

COMMENCING at the intersection of the left bank of the Grand River facing downstream and the centre line of the King's Highway No. 403;

THENCE easterly along the centre line of the said Highway No. 403 to the northeasterly limit of the right-of-way of the Canadian National Railway;

THENCE northwesterly along the northeasterly limit of the said Railway right-of-way to intersect a line parallel with and distant 45.720 metres measured southerly at right angles from the northerly limit of Concession II in the Township of Brantford;

THENCE westerly along the said parallel line to the easterly limit of Lot 18 in the said Concession II;

THENCE southerly along the easterly limit of Lot 18 to intersect a line parallel with and distant 121.920 metres measured southerly at right angles from the northerly limit of the said Concession II;

THENCE westerly along the said parallel line to the left bank of the Grand River facing downstream;

THENCE southerly along the said left bank to the point of commencement.

SCHEDULE C

RESTRICTED TO AGRICULTURE AND RELATED USES AREA

That part of the Township of Brantford commencing at the northwest angle of Lot 24, Concession I;

THENCE easterly along the south limit of Highways No. 5 and 99 to the middle line of Fairchilds Creek in Lot 46, Concession I;

THENCE following the middle line of Fairchilds Creek downstream through all its turnings to the boundary between the Township of Brantford and the Township of Onondaga;

THENCE westerly following said boundary to a point on the south limit of Old Onondaga Road, said point being on a line drawn at right angles to Old Onondaga Road and intersecting the north limit of Old Onondaga Road and its intersection with the west limit of an unnamed road allowance extending northerly into the John Westbrook Grant from Old Onondaga Road;

THENCE northerly at right angles from Old Onondaga Road to the point of intersection of the unnamed road allowance and the north limit of Old Onondaga Road;

THENCE north 10 degrees east 122.53 metres to a point;

THENCE south 77 degrees 23 minutes east 96.50 metres to a point;

THENCE north 26 degrees 45 minutes east 282.21 metres to a point;

THENCE north 62 degrees 48 minutes west 251.49 metres to a point;

THENCE north 63 degrees 40 minutes west 249.372 metres to a point;

THENCE north 64 degrees 6 minutes west 39.11 metres to a point;

THENCE north 25 degrees 54 minutes east to a point on the limit of the Grand River Conservation Authority flood plain for Fairchilds Creek;

THENCE following said limit northeasterly to its point of intersection with the west limit of the Brant School Road;

THENCE northwesterly following the west limit of Brant School Road and its projection to the north side of the King's Highway No. 2;

THENCE easterly following the north limit of the said Highway No. 2 to the southwest angle of the Township Cemetery Plot in the Daniel Hawley Tract;

THENCE north following the west limit of the Township Cemetery Plot to the middle line of Fairchilds Creek;

THENCE following the middle line of Fairchilds Creek upstream to a point distant 121.92 metres measured northerly at right angles from the northerly limit of Highway No. 2;

THENCE westerly parallel with the north limit of Highway No. 2 to a point distant 121.92 metres easterly from the east limit of Papple Road;

THENCE northerly parallel to Papple Road to the south limit of the Toronto, Hamilton and Buffalo Railway;

THENCE southwesterly along the south limit of the said Railway to its point of intersection with the west limit of the King's Highway No. 403;

THENCE following the west limit of the said Highway No. 403 and also the existing City boundary and its extension to the north limit of Lynden Road;

THENCE westerly along the north limit of Lynden Road to the southwest angle of Lot 42, Concession II, being the existing City boundary;

THENCE following the existing City boundary to the south limit of Powerline Road;

THENCE westerly along the south limit of Powerline Road to a point distant 79.86 metres east of the eastern boundary of Francis Street;

THENCE northerly at right angles 117.65 metres to a point;

THENCE westerly parallel with the north limit of Powerline Road to a point distant 91.44 metres measured easterly at right angles from the east limit of the King's Highway No. 24;

THENCE northerly parallel with Highway No. 24 to a point, said point being drawn on a line at right angles from the said Highway No. 24 and measured 620.77 metres northerly along the centreline of said road from the south limit of Powerline Road;

THENCE westerly at right angles from the said Highway No. 24, 91.44 metres to the east limit of the said Highway;

THENCE southerly along the easterly limit of the said Highway to the south limit of Powerline Road;

THENCE westerly following the south limit of Powerline Road to the northeast angle of Lot 27, Concession II;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of Lot 27 to a point distant 435 metres measured northerly therealong from the southeasterly angle of the north half of the said Lot;

THENCE south $77^{\circ} 13' 30''$ west 160.078 metres to a point;

THENCE south $49^{\circ} 51' 20''$ west 169.588 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 90 metres to the westerly limit of Lot 27;

THENCE south $15^{\circ} 55' 30''$ east along the said westerly limit 100 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 403.665 metres to the westerly limit of Lot 26 in the said Concession II;

THENCE south $16^{\circ} 06'$ east along the westerly limit of the said Lot, 256.77 metres to the southwesterly angle of the north half of the said Lot 26;

THENCE southerly along the west limit of Lot 26 to the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway 403 to the north limit of the Canadian National Railway line;

THENCE northwesterly along the northerly limit of the said Railway to a line parallel with and distant 45.72 metres measured southerly at right angles from the southerly limit of Powerline Road;

THENCE westerly and parallel with the southerly limit of Powerline Road to a point on the westerly limit of Oak Park Road;

THENCE southerly along the westerly limit of Oak Park Road 76.20 metres to a point;

THENCE westerly parallel with the southerly limit of Powerline Road to the left bank of the Grand River facing downstream;

THENCE following the said left bank of the Grand River facing downstream through its various turnings to the existing City boundary and following the said boundary to a point that lies on the extension of the limit between Blocks 2 and 3 in the Kerr Tract, also being the existing City boundary;

THENCE following the existing City boundary southerly and westerly and continuing along the middle line of Oak Hill Drive to the southerly extension of the east limit of Jennings Road;

THENCE northerly along the east limit of Jennings Road to a point lying on the mid line of Concession IV;

THENCE westerly following the centre line of Concession IV to a point on the west limit of the Airport lands owned by the City of Brantford;

THENCE southerly along the west limit of the Airport lands and its extension to a point 121.92 metres south of the south limit of the King's Highway No. 53;

THENCE easterly parallel with Highway No. 53 to a point on the centre line in Lot 15, Concession V;

THENCE southerly parallel with the west limit of Lot 15 to a point on the northerly limit of Block 1 in the Kerr Tract;

THENCE easterly following the north limit of the Kerr Tract to the southeast angle of Lot 16, Concession V;

THENCE northerly along the east limit of Lot 16, Concession V to a point in the southerly limit of the King's Highway No. 53;

THENCE easterly along the southerly limit of the said Highway No. 53 to the westerly limit of Pleasant Ridge Road;

THENCE southerly along the west limit of Pleasant Ridge Road to the southerly limit of the Canadian National Railway right-of-way;

THENCE northeasterly along the southeasterly limit of the said Railway to the northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE southeasterly along the northeasterly limit of the said lands to the northwesterly limit of Block 5 in the Kerr Tract;

THENCE northeasterly along the northwesterly limit of the said Block 5 to the westerly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southeasterly along the southwesterly limit of the Ontario Water Resources described in Instrument numbers A37389 and A37439 to the northwesterly limit of Shellard Lane;

THENCE south 39° 25' east to the southeasterly limit of Shellard Lane;

THENCE north 50° 35' east along the said southeasterly limit to the westerly angle of lands described in Registered Instrument Number A163668;

THENCE south 63° 11' 45" east along the southwesterly limit of the said lands 1,634.493 metres to the easterly limit of the lands of the Lake Erie and Northern Railway;

THENCE following the east limit of said railway to the easterly limit of Conklin Road;

THENCE southerly following the easterly limit of Conklin Road to the southerly limit of Mt. Pleasant Road;

THENCE easterly along the southerly limit of Mt. Pleasant Road 244.75 metres to a point;

THENCE south 37 degrees 41 minutes east 489.45 metres to a point;

THENCE easterly in a straight line to the southwest angle of Registered Plan 966;

THENCE easterly following the southerly limit of said plan to the southeast angle of Registered Plan 966;

THENCE northerly following the easterly limit of said plan and its extension to the middle line of the Grand River;

THENCE following the middle line of the Grand River downstream through all its turnings to a point distant 152.4 metres measured southerly at right angles from the southerly limit of Blossom Avenue;

THENCE following a line parallel with and distant 152.4 metres from the southerly limit of Blossom Avenue and its proposed extension from Mt. Pleasant Road to Pleasant Ridge Road to a point on the westerly limit of Pleasant Ridge Road;

THENCE following a line parallel with and distant 152.4 metres from the southerly limit of Arthur Road to a point on the east limit of the King's Highway No. 24;

THENCE northerly following the easterly limit of the said Highway No. 24 to the northerly limit of Robinson Road;

THENCE easterly along the northerly limit of Robinson Road to the easterly limit of Pottruff Road;

THENCE northerly along the easterly limit of Pottruff Road to the southerly limit of Powerline Road;

THENCE easterly following the south limit of Powerline Road to the southwest angle of Lot 24, Concession I;

THENCE northerly along the west limit of Lot 24 to the point of commencement.

SAVING AND EXCEPTING all those lands described as Lot 22 in Registered Plan 594.

SCHEDULE D

MUTUAL PLANNING ADVISORY COMMITTEE AREA

a) NORTH

COMMENCING at the northeast angle of Lot 40, Concession II;

THENCE westerly along the south side of Powerline Road to a point 79.86 metres easterly of the easterly limit of Francis Street;

THENCE northerly at right angles 117.65 metres to a point;

THENCE westerly parallel with the north limit of Powerline Road to a point distant 91.44 metres from the easterly limit of the King's Highway No. 24;

THENCE northerly and parallel with the said Highway No. 24 to a point, the said point being drawn on a line at right angles from the said Highway No. 24 distant 620.27 metres measured northerly from the centreline of said road from the south limit of Powerline Road;

THENCE westerly at right angles from the said Highway No. 24, 91.44 metres to the easterly limit of said Highway;

THENCE southerly along said easterly limit to the southerly limit of Powerline Road;

THENCE westerly following the southerly limit of Powerline Road to the northwest angle of Lot 28 in Concession II;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of Lot 27 to a point distant 435.00 metres measured northerly therealong from the southeasterly angle of the north half of the said Lot;

THENCE south $77^{\circ} 13' 30''$ west 160.078 metres to a point;

THENCE south $49^{\circ} 51' 20''$ west 169.588 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 90.00 metres to the westerly limit of Lot 27;

THENCE south $15^{\circ} 55' 30''$ east along the said westerly limit 100.00 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 403.665 metres to the westerly limit of Lot 26 in the said Concession II;

THENCE south $16^{\circ} 06'$ east along the westerly limit of the said Lot, 256.77 metres to the southwesterly angle of the north half of the said Lot 26;

THENCE easterly to the southeast angle of the north half of Lot 28 in Concession II;

THENCE easterly following the existing City boundary to a point distant 336.71 metres more or less west of the western limit of the King's Highway No. 24 as widened;

THENCE southerly and parallel with the westerly limit of Lot 30 in Concession II, 314.0 metres more or less to a point;

THENCE easterly on a bearing of north 77 degrees 00 minutes east 140.74 metres to a point;

THENCE northerly on a bearing of north 15 degrees 39 minutes west 60.56 metres to a point;

THENCE easterly on a bearing of north 76 degrees 53 minutes east 100.22 metres to a point;

THENCE northerly on a bearing of north 14 degrees 25 minutes west 19.93 metres to a point;

THENCE easterly on a bearing of north 77 degrees 4 minutes east 95.28 metres more or less to a point on the westerly limit of the said Highway No. 24 as widened, said point being in the boundary between the City of Brantford and the Township of Brantford;

THENCE southerly and easterly following the existing City Boundary along its various courses and distances to its point of intersection with the southeasterly angle of the Rosewood Garden Subdivision Plan being the southeasterly angle of Lot 10, Registered Plan 1521;

THENCE following the former City-Township boundary prior to the 1974 annexation to its point of intersection with the existing City boundary (Garden Avenue);

THENCE continuing southerly along the existing boundary to its point of intersection with the centreline of the Grand River;

THENCE along the middle line of the Grand River downstream to its point of intersection with the boundary between the Township of Onondaga and the Township of Brantford;

THENCE following said boundary through its various courses and distances to a point on the south limit of Old Onondaga Road, said point being on a line drawn at right angles from Old Onondaga Road and intersecting the northerly limit of Old Onondaga Road and its intersection with the westerly limit of an unnamed road allowance extending northerly into the John Westbrook Grant from the Old Onondaga Road;

THENCE northerly at right angles from the Old Onondaga Road to the point of intersection of the unnamed road allowance and the northerly limit of Old Onondaga Road;

THENCE north 10 degrees east 122.53 metres to a point;

THENCE south 77 degrees 23 minutes east 96.50 metres to a point;

THENCE north 26 degrees 45 minutes east 282.21 metres to a point;

THENCE north 62 degrees 48 minutes west 251.49 metres to a point;

THENCE north 63 degrees 40 minutes west 249.37 metres to a point;

THENCE north 64 degrees 6 minutes west 39.11 metres to a point;

THENCE north 25 degrees 54 minutes east to a point on the limit of the Grand River Conservation Authority Flood Plain for Fairchilds Creek;

THENCE following said limit northeasterly to its point of intersection with the westerly limit of Brant School Road;

THENCE following the westerly limit of Brant School Road and its projection to the north side of the King's Highway No. 2;

THENCE easterly following the north limit of the said Highway No. 2 to the southwest angle of the Township Cemetery Plot in the Daniel Hawley Tract;

THENCE north following the west limit of the Township Cemetery Plot to the middle line of Fairchilds Creek;

THENCE following the middle line of Fairchilds Creek upstream to a point distant 121.92 metres measured northerly at right angles from the northerly limit of the said Highway No. 2;

THENCE westerly parallel to the north limit of King's Highway No. 2 to a point distant 121.92 metres easterly from the easterly limit of Papple Road;

THENCE northerly parallel to Papple Road to the south limit of the Toronto, Hamilton and Buffalo Railway;

THENCE southwesterly along the southerly limit of the said Railway to the westerly limit of the King's Highway No. 403;

THENCE following the west limit of the said Highway 403 and also the existing City boundary and its extension to the north limit of Lynden Road;

THENCE westerly along the northerly limit of Lynden Road to the existing City boundary;

THENCE following said boundary to the point of commencement.

b) NORTHWEST

COMMENCING at the intersection of a line between Lots 25 and 26 in Concession II and the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway No. 403 to the northerly limit of the Canadian National Railway right-of-way;

THENCE northwesterly along the northerly limit of the said Canadian National Railway to its point of intersection with a line drawn at right angles from the south limit of Powerline Road and distant 45.72 metres measured east-westerly therefrom;

THENCE westerly and parallel to the south limit of Powerline Road to a point on the west limit of Oak Park Road;

THENCE southerly along the west limit of Oak Park Road 76.2 metres to a point;

THENCE westerly parallel with the southerly limit of Powerline Road to the left bank of the Grand River facing downstream;

THENCE following the left bank of the Grand River downstream through its various turnings to its point of intersection with the existing City boundary being also the limit between Lots 25 and 26 in Concession III;

THENCE northerly along said boundary to the point of commencement.

c) SOUTHWEST

COMMENCING at a point in the mid line of the Grand River and its intersection with the extension of the limit between Blocks 2 and 3 in the Kerr Tract, also being the existing City boundary;

THENCE following the existing City boundary southerly and westerly and continuing along the middle line of Oak Hill Drive to the southerly extension of the east limit of Jennings Road;

THENCE northerly along the east limit of Jennings Road to a point lying on the mid line of Concession IV;

THENCE westerly following the centre line of Concession IV to a point on the west limit of the Airport lands owned by the City of Brantford;

THENCE southerly along the west limit of the Airport lands and its extension to a point 121.92 metres south of the south limit of the King's Highway No. 53;

THENCE easterly parallel with Highway No. 53 to a point on the centre line in Lot 15, Concession V;

THENCE southerly parallel with the west limit of Lot 15 to a point on the northerly limit of Block 1 in the Kerr Tract;

THENCE easterly following the north limit of the Kerr Tract to the southeast angle of Lot 16, Concession V;

THENCE northerly along the east limit of Lot 16, Concession V to a point in the southerly limit of the King's Highway No. 53;

THENCE easterly along the southerly limit of the said Highway No. 53 to the westerly limit of Pleasant Ridge Road;

THENCE southerly along the west limit of Pleasant Ridge Road to the southerly limit of the Canadian National Railway right-of-way;

THENCE northeasterly along the southeasterly limit of the said Railway to northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE southeasterly along the northeasterly limit of the said lands to the northwesterly limit of Block 5 in the Kerr Tract;

THENCE northeasterly along the northwesterly limit of the said Block 5 to the westerly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southeasterly along the southwesterly limit of the Ontario Water Resources described in Instrument Number A37389 and A37439 to the northwesterly limit of Shellard Lane;

THENCE south 39° 25' east to the southeasterly limit of Shellard Lane;

THENCE north 50° 35' east along the said southeasterly limit to the westerly angle of lands described in Registered Instrument Number A163668;

THENCE south 63° 11' 45" east along the southwesterly limit of the said lands 1,634.493 metres to the easterly limit of the lands of the Lake Erie and Northern Railway;

THENCE following the easterly limit of said railway to its point of intersection with the easterly limit of Conklin Road;

THENCE southerly following the east limit of Conklin Road to the southerly limit of Mt. Pleasant Road;

THENCE easterly along the southerly limit of Mt. Pleasant Road 244.75 metres to a point;

THENCE south 37 degrees 41 minutes east 489.45 metres to a point;

THENCE easterly in a straight line to the southwest angle of Registered Plan 966;

THENCE easterly following the southern limit of said plan to the southeast angle of Registered Plan 966;

THENCE northerly following the east limit of said plan and its extension to the middle line of the Grand River;

THENCE following the existing City boundary to the north limit of Bell Lane;

THENCE northwesterly in a straight line to the point of intersection of the Canadian National Railway right-of-way and Colborne Street West;

THENCE due north to the middle line of the Grand River;

THENCE following the middle line of the Grand River upstream to the point of commencement.

And together with all those lands described as Lot 22 in Registered Plan 594.

An Act respecting
the City of Brantford, the Township
of Brantford and the County of Brant

1st Reading

June 12th, 1980

2nd Reading

June 17th, 1980

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(*Reprinted as amended by
the General Government Committee*)

BILL 120

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act respecting the City of Brantford, the Township of Brantford and the County of Brant

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

BILL 120

1980

An Act respecting the City of Brantford, the Township of Brantford and the County of Brant

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "annexed area" means the lands annexed to the City of Brantford under subsection 1 of section 2;
- (b) "City" means The Corporation of the City of Brantford;
- (c) "County" means The Corporation of the County of Brant;
- (d) "Minister" means the Minister of Intergovernmental Affairs;
- (e) "Municipal Board" means the Ontario Municipal Board;
- (f) "Township" means The Corporation of the Township of Brantford.

2.—(1) On the 1st day of January, 1981, the portions of the Township described in Schedule A are annexed to the City.

Annexation

(2) On the 1st day of January, 1991, the portions of the Township being composed of approximately 50 acres in Lot 18, Concession II north of and contiguous to Highway 403 and approximately 50 acres in Lot 19, Concession II north of and contiguous to Highway 403, or such other lands as the City and Township may agree upon, as described by an order of the Lieutenant Governor in Council to be made in the year 1990, are annexed to the City.

Subsequent
annexation

(3) The determination of the lands to be annexed under subsection 2 shall be made jointly by agreement among the City, the

Agreement

County and the Township by the 1st day of July, 1990, and, following such agreement, the Lieutenant Governor in Council shall, by order, annex the lands agreed upon by the City, the Township and the County.

Order in
council

(4) If the City, the Township and the County are unable to agree on the lands to be annexed under subsection 2, the Lieutenant Governor in Council shall, by order, annex such lands to the City as the Lieutenant Governor in Council may consider appropriate.

Subsequent
annexation

(5) On the 1st day of January, 1996, the portions of the Township described in Schedule B not previously annexed under subsection 2, are annexed to the City.

Application of
R.S.O. 1970,
c. 284,
ss. 5, 336

3.—(1) Sections 5 and 336 of *The Municipal Act* apply to the City in respect of the lands described in Schedule B.

Roads and
water

(2) On and after the 1st day of January, 1991, the City may provide roads, piped water and sewer services to the lands to be annexed to the City under subsection 5 of section 2.

Limitation

(3) Subject to subsection 2, the City may not extend piped water or sewer services beyond its boundaries without the consent of the Township or unless so ordered by the Province of Ontario under any general Act.

Official
plan
designations

4.—(1) The portions of the Township described in Schedule C shall be designated by the Township in its official plan, and in subsequent amendments thereto, so as to ensure the preservation of farmland, the provision of a municipal water supply and the development of mineral resource extraction and for uses related to agriculture and mineral resource extraction.

Official
plan
amendments

(2) The Township shall prepare and, subject to the agreement of the City and the County, shall adopt and submit to the Minister of Housing an amendment to its official plan for the area referred to in subsection 1 by the 1st day of September, 1980.

Idem

(3) The Township, subject to the agreement of the City and the County, and the City, subject to the agreement of the Township and the County, shall prepare, adopt and submit to the Minister of Housing by the 1st day of September, 1980 amendments to their official plans for the portions of the area described in Schedule D under their respective jurisdictions.

Idem

(4) The Township shall prepare, in consultation with the City and County, and shall adopt and submit, after consultation with the City and County, to the Minister of Housing in accordance with *The Planning Act* by the 1st day of September, 1981 an

R.S.O. 1970,
c. 349

amendment to its official plan for the portions of the Township not described in Schedules C and D.

(5) The City, the Township and the County may appoint one or more arbitrators to decide the detailed definition of land uses in the official plan amendments to be submitted in accordance with subsections 2 and 3. Arbitration

(6) If the City, the Township and the County cannot agree on the detailed definition of land uses referred to in subsection 5 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister of Housing shall appoint a hearing officer under subsection 7. Idem

(7) The Minister of Housing shall appoint one or more hearing officers to hear representations and make recommendations, having regard to the objective referred to in subsection 1, concerning the proposed designations for the areas included in the official plan amendments to be submitted in accordance with subsections 2 and 3, and the Minister of Housing may, upon the request of the Township and if he considers it appropriate, appoint one or more hearing officers to hear representations and make recommendations concerning the proposed designations for the areas included in the official plan amendment submitted in accordance with subsection 4, and, following a hearing under rules of procedure adopted by the hearing officer or officers, the recommendations of the hearing officer or officers shall be made to the Minister of Housing concerning the proposed official plan or plans and copies of the recommendations shall be filed with the clerks of the City, the Township and the County and public notice of such filing shall be given by the clerk of each municipality. Hearing officers

(8) Following the recommendations of the hearing officer or officers, the Minister of Housing shall make a recommendation to the Lieutenant Governor in Council as to whether the report of the hearing officer be approved, rejected or varied, and if the recommendation of the Minister of Housing to the Lieutenant Governor in Council is other than that the report of the hearing officer be approved, then the Minister of Housing shall give public notice to this effect, state his intentions and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. Approval of recommendations

(9) Where the Minister of Housing makes a recommendation under subsection 8 respecting the areas referred to in subsections 2 and 3, he shall have regard to the objective set out in subsection 1. Objective to be considered

(10) The City, the Township and the County shall not make representations under subsections 7 and 8 that are contrary to an agreement under subsection 1 or 3, or that are contrary to the decision of an arbitrator under subsection 5. Estoppel

Approval
of official
plans

(11) The Lieutenant Governor in Council having regard to the objective set out in subsection 1 may, by order, approve the proposed amendments to the official plans or may approve them with such modifications as the Lieutenant Governor in Council, following consultation with the municipalities, considers desirable, and thereupon the official plans, as amended, are, for the purposes of every Act, the official plans for the municipalities and portions of municipalities affected thereby.

Mutual
Planning
Advisory
Committee

(12) The City, the Township and the County shall establish a consultative body, to be known as the "Mutual Planning Advisory Committee", to advise the municipalities on planning matters in the portions of the Township and City described in Schedule D.

Amendments
to official
plan

R.S.O. 1970,
c. 349

(13) After the approval of the official plan amendments by the Lieutenant Governor in Council under subsection 11 with respect to the lands described in Schedule C, amendments may be made to the official plan of the Township in accordance with *The Planning Act* to provide for any land use designation with respect to the said lands, but no amendment may be made that provides for land use designations other than those referred to in subsection 1 unless the City, the Township and the County agree to the proposed land use designations.

City's power
to apply to
O.M.B. for
annexations
restricted

5.—(1) The City shall not apply to the Municipal Board for the annexation of any lands in the Township before the 1st day of January, 2004 unless the Township agrees to such annexation.

Exceptions

(2) Notwithstanding subsection 1 but subject to subsection 4, the City may apply to the Municipal Board at any time to annex,

(a) lands within the area described in Schedule C or D, other than lands that are the subject of an agreement under clause *c* of subsection 2 of section 8, to which the Township requests that the City extend piped water or sewer services or to which the Province of Ontario under any general Act requires the City to extend such services;

(b) lands within the area described in Schedule C or D,

(i) for which a draft plan of subdivision to which the Minister of Housing has given approval or draft approval under section 33 of *The Planning Act*, or

(ii) in respect of which a restricted area by-law or by-law amendment which takes effect under section 35 of *The Planning Act* or an approval granted by the Township or a local board thereof,

permits development exceeding that provided for in the official plan amendments submitted under subsections 2 and 3 of section 4 by any of the following,

- (iii) residential development, other than farm dwellings, consisting of more than twenty adjacent or proximate dwelling units, or development consisting of more than twenty adjacent or proximate residential lots created as a result of consents under section 29 of *The Planning Act* or by a plan or plans of subdivision under section 33 of *The Planning Act*,

R.S.O. 1970,
c. 349

- (iv) commercial development of a total of more than 930 square metres of gross floor area on one parcel of land or on two or more adjacent parcels,
 - (v) industrial development on a total of more than four hectares of land capable of being utilized for industrial purposes on one parcel of land or on two or more adjacent parcels; and
- (c) such other lands lying between lands annexed under this subsection and the closest logical boundary of the City that, in the opinion of the Municipal Board, are required to provide an appropriate boundary between the City and the Township.

(3) The County and the Township shall not oppose any annexation application made under clause *a* of subsection 2.

Opposition by
County and
Township
prohibited

(4) The City, the Township and the County may from time to time agree that no application may be made under subsection 2 during the period set out in the agreement with respect to lands described therein and the City shall not apply to the Municipal Board during any such period to annex the described lands.

Agreements
not to
annex
lands

6.—(1) For the term of office beginning on the 1st day of December, 1980, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and shall be the head of the council, and eleven members elected by wards.

Composition
of City
council

(2) Subject to subsection 4, for the term of office beginning on the 1st day of December, 1982 and for subsequent terms of office, the council of the City shall be composed of a mayor who shall be elected by general vote of the electors of the City and who shall be the head of the council, and such number of members elected by wards as the Minister by order determines, following representations by the City as to the composition of council.

Idem

Elections in
1980 and 1982

(3) For the purposes of the elections in the years 1980 and 1982, the Minister may, by order, divide the City and annexed area into wards and make provision for the respective number of members of the council and the public utilities commission of the City to be elected in the respective wards, and the wards provided for the elections in the year 1982 shall remain in effect until altered by the Municipal Board.

Idem
1977, c. 62

(4) Notwithstanding *The Municipal Elections Act, 1977*, the Minister may, by order, provide for the holding of the election in the year 1980 of the members of the councils of the City and the Township, The Public Utilities Commission of the City of Brantford, the Hydro-Electric Commission of the Township of Brantford, The Brant County Board of Education and The Brant County Separate School Board, including nominations, polling days, qualifications of electors, polling places, the appointment of returning officers, preparation of polling lists, the terms of office of the members and any other matters considered necessary in respect of the election.

Application of
R.S.O. 1970,
c. 284, s. 28

(5) If the wards provided for the elections in the year 1982 are altered by the Municipal Board, the council of the City shall be composed in accordance with section 28 of *The Municipal Act*.

Public
Utilities
Commission
1944, c. 72
R.S.O. 1970,
c. 390

(6) Notwithstanding *The City of Brantford Act, 1944* and section 42 of *The Public Utilities Act*, for the term of office beginning the 1st day of December, 1980, The Public Utilities Commission of the City of Brantford shall be composed of the mayor of the City and six members, elected by wards.

Idem

(7) For the term of office beginning the 1st day of December, 1982, the Minister may, by order, following representations by the City and The Public Utilities Commission of the City of Brantford as to the composition of the Commission, determine the composition of the Commission and the composition of the Commission continues as set out in the order until such time as the council of the City, by by-law, provides that *The City of Brantford Act, 1944* shall apply.

1944, c. 72

Transportation
and service
corridor

7.—(1) The City, the Township and the County may by agreement make recommendations with respect to, and the Lieutenant Governor in Council shall, by order, do whatever the Lieutenant Governor in Council considers necessary for, the provision of a transportation and service corridor to link the portion of the annexed area lying to the north-west of the City with the portion of the annexed area lying to the south-west of the City, and, notwithstanding the generality of the foregoing, may authorize the City to acquire any lands that the Lieutenant Governor in Council considers necessary for such purpose.

(2) The City, the Township and the County may appoint one or more arbitrators to make recommendations concerning the limits of the corridor referred to in subsection 1 and the desirability of annexing the area or any part thereof to the City. Arbitration

(3) If the City, the Township and the County are unable to agree on the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators by the 30th day of September, 1981, the Minister shall appoint one or more arbitrators to assist in the resolution of the issues that have not been resolved. Idem

(4) The Lieutenant Governor in Council may, by order, annex any or all of the corridor area to the City. Orders in council

(5) The Lieutenant Governor in Council shall, by order, annex to the City such area as is agreed upon by the City, the Township and the County under this section. Idem

(6) Before an order is made under subsection 4, the Minister shall cause public notice to be given and a period of twenty-one days shall be allowed when representations in writing can be made by anyone concerned to the Lieutenant Governor in Council. Public notice

(7) The Lieutenant Governor in Council may, by order, alter the boundaries of the lands described in Schedules C and D to conform with the limits of the corridor area. Amendment of Schedules

8.—(1) The City and the County may enter into agreements to determine the municipal contributions to the Brantford Suburban Roads Commission and the sharing of costs in respect of suburban roads, the Brant Planning Board, the Children's Aid Society of Brant, homes-for-the-aged, rescue truck services, assisted housing, general welfare, hospital debt, health, emergency measures and a fire radio alarm system. Cost sharing agreements

(2) The City and the Township may enter into agreements to, Idem

- (a) share municipal costs attributable to the use of the City of Brantford Public Library and the City landfill site facilities;
- (b) determine the use, maintenance and disposition by the Township of the Shellard Lane well and related water lines;
- (c) define areas in the Township to be supplied with water by the City and establish the rates for such water; and
- (d) define areas in the City to be supplied with water by the Township and establish the rates for such water.

- Arbitration (3) The City, the Township and the County may appoint one or more arbitrators, whose decision shall be final, to decide any of the matters referred to in subsections 1 and 2.
- Idem (4) If the City, the Township or the County are unable to agree on any of the matters referred to in subsections 1 and 2 or are unable to agree on the appointment of an arbitrator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide any of the issues which have not been resolved.
- Assent of electors not required (5) Agreements reached for sharing costs shall not require the assent of the electors.
- Application of R.S.O. 1970, c. 201 (6) Sections 66, 67 and 68 of *The Public Transportation and Highway Improvement Act* do not apply to agreements reached under this section in respect of suburban roads and the Brantford Suburban Roads Commission, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.
- Application of 1978, c. 85 (7) Subsection 6 of section 8 of *The Child Welfare Act, 1978* does not apply to agreements reached under this section in respect of the Children's Aid Society of Brant, but such agreements shall not take effect until they have been approved by the Lieutenant Governor in Council.
- Order in council (8) The Lieutenant Governor in Council may, by order, approve or reject the agreements referred to in subsections 6 and 7, and following the approval of any agreement, the sharing of costs as approved becomes effective on the date specified in the order.
- Transitional rates **9.**—(1) The Minister may provide from time to time, by order, that in the years 1981, 1982, 1983, 1984, 1985 and 1986, and in the manner specified in the order, that the council of the City shall levy and impose on the whole of the annexed area and on the whole of the remainder of the City rates of taxation for general purposes and rates and charges for special purposes that are different than the rates and charges that would have been levied or imposed for such purposes but for the provisions of this section.
- Rural areas (2) The City may provide for rates of taxation for general purposes and rates and charges for special purposes in defined areas of the rural parts of the annexed area lower than the rates generally applicable in the City to reflect the extent to which rural areas do not receive City services, and the rates may vary among the defined areas.

(3) The level, duration, boundaries and conditions of the area rating authorized under subsection 2 shall be determined by a committee consisting of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint, and the determination of the committee shall be effective upon the unanimous ratification by the councils of the municipalities. Determination
of area
rating

(4) If the committee cannot agree on any of the issues which it is required to determine or if the councils of the municipalities do not ratify the determination of the committee, the councils may appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues. Arbitration

(5) If the councils cannot agree on the appointment of an arbitrator or arbitrators, the Minister shall appoint one or more arbitrators, whose decision shall be final, to decide the issue or issues. Idem

(6) The Ministry of Revenue shall in the years 1980 and 1981 assess real property in the annexed area on the same basis as the assessment of real property in the Township, and the special assessment roll prepared for the annexed area in accordance with this provision shall be used for the fixing and levying of rates of taxation by the council of the City in the years 1981 and 1982. Assessment
in annexed
area

10.—(1) For the purposes of subsection 2 of section 307 of *The Municipal Act*, the surplus of the previous year for which allowance is to be made, or the operating deficit to be provided for, in the estimates of the council of the City for the year 1981 shall be the aggregate of the audited surplus or audited operating deficit of the City and the portions of the audited surplus or audited operating deficit of the Township attributable to the annexed area. Estimates
R.S.O. 1970,
c. 284

(2) For the purposes of subsection 1, the audited surplus or audited operating deficit attributable to the annexed area shall be an amount that is the same proportion of the audited surplus or audited operating deficit of the Township that the amount of the assessment of the annexed area is of the total amount of the assessment of the Township, according to the 1980 assessment rolls as returned to the clerks of the City and Township. Calculation
of audited
surplus,
deficit

11.—(1) In this section, "surplus or operating deficit" includes any reserves provided for under subsection 2 of section 307 of *The Municipal Act* other than reserves established in connection with the employment of officers or servants by the City or the Township. Interpre-
tation

(2) The audited surplus or audited operating deficit of the Township or the City at the 31st day of December, 1980 shall accrue to the credit of or become a charge on the assessment Allocation
of surplus
or deficit

supporting such surplus or operating deficit and shall be provided for by adjustment of the tax rate over a period not exceeding five years from the 1st day of January, 1981.

Assets and liabilities,
County roads

12.—(1) All the assets and liabilities of the Township attributable to an area annexed to the City under this Act and the County roads in an area so annexed become assets and liabilities of the City on the effective date of the annexation without compensation.

Exceptions

(2) Notwithstanding subsection 1, the Tranquility Fire Hall and Community Centre shall remain an asset of the Township until such time as it ceases to be used by the Township for the purposes for which it was used on the 1st day of April, 1980, and the Shellard Lane well and related water lines shall remain assets of the Township until such time as the Township and the City have reached agreement on the ultimate disposition of the well and water lines.

Arbitration
re assets and liabilities

13.—(1) In the year in which an annexation occurs under section 2 or 7 of this Act, the Minister shall appoint committees of arbitrators for the purpose of determining the assets and liabilities of the Township attributable to the lands annexed and the disposition, including the physical possession, of the assets and liabilities, including reserve funds, of the Township attributable to such lands.

Composition
of arbitration
committees

(2) Each committee shall consist of one representative appointed by each of the City, the Township and the County and such other person or persons as the Minister may appoint.

Provisional
determination

(3) Before the 31st day of December of the year in which the annexation occurs, the committee shall, where appropriate, make a provisional determination of the disposition of the known assets, liabilities and reserve funds of the Township and the disposition shall become operative from the 1st day of January of the following year.

Final
determination

(4) As soon as possible thereafter, the committee, where appropriate, shall make a final determination of the disposition of assets, liabilities and reserve funds as at the 31st day of December of the year in which the annexation occurs together with the determination of any financial adjustments that may be necessary.

Notice of
determination
deemed
agreement

(5) The final determination made under subsection 4 shall be forwarded forthwith to the clerks of the municipalities concerned and the Municipal Board, and unless the council of the City, Township or County notifies the Municipal Board in writing within thirty days of the mailing of such determination that it

objects to the determination, such determination shall, for the purposes of clause *a* of subsection 11 of section 14 of *The Municipal Act*, be deemed to be agreed upon by such municipalities.

R.S.O. 1970,
c. 284

(6) Notwithstanding the provisions of section 11 and this section, the Minister may prescribe the period over which any adjustments and settlements made under section 11 or this section are to be made. Proviso

14.—(1) Every by-law of the Township and the County as the by-law exists on the 31st day of December, 1980 shall remain in force in the annexed area and may be amended or repealed by the council of the City. Continuation
of by-laws

(2) Where the Township or the County has commenced procedures to enact a by-law that, prior to its enactment, requires the approval of any minister of the Crown, any Provincial Ministry, the Municipal Board or any Provincial body or agency, and such approval has not been obtained prior to the 31st day of December, 1980, then the council of the City shall be entitled to continue the procedure to finalize such by-law of the Township or the County in so far as it pertains to the City, and the provisions of subsection 1 apply with necessary modifications to any such by-law. Idem

15. Where the Minister or the Lieutenant Governor in Council is given the power to make an order under this Act, the Minister or the Lieutenant Governor in Council, respectively, may appoint such arbitrators or other persons as is considered appropriate to assist in the determination of such matters. Appointment
of arbitrators
and advisors

16. The Lieutenant Governor in Council, upon the recommendation of the Minister, may authorize all such acts or things not specifically provided for in this Act that in the Minister's opinion are considered necessary or advisable to carry out effectively the purposes of this Act. General

17. The City, the Township and the County and those negotiating on their behalf shall be deemed to have always had the power to negotiate and enter into the Brantford-Brant Local Government Pilot Project Agreement entered into by the municipalities in April, 1980. Brantford-
Brant
Local
Government
Pilot
Project
Agreement

18. The Lieutenant Governor in Council may, at any time prior to the 1st day of January, 1987, by order, on such terms and conditions as the Lieutenant Governor in Council considers appropriate, provide for payments to be made to the City, the Township and the County to achieve any of the purposes of this Act. Grants

Conflict

19. In the event of any conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

Commence-
ment

20. This Act comes into force on the day it receives Royal Assent.

Short title

21. The short title of this Act is *The Brantford-Brant Annexation Act, 1980*.

SCHEDULE A

AREAS TO BE ANNEXED TO THE CITY OF BRANTFORD ON THE 1ST DAY OF JANUARY, 1981

The portions of the Township of Brantford described as follows:

FIRSTLY, part of the Township of Brantford, commencing at a point in the northerly boundary of the City of Brantford and the westerly limit of Lot 28 in Concession II of the Township of Brantford;

THENCE northerly along the westerly limit of the said Lot 28 to the northerly limit of the said Lot 28, Concession II;

THENCE easterly along the northerly limits of Lots 28 to 33 inclusive in Concession II, to the easterly limit of said Lot 33 in the said Concession II;

THENCE southerly along the easterly limit of Lot 33 and thereafter following the boundaries between the Township of Brantford and the City of Brantford to the point of commencement;

SECONDLY, part of the Township of Brantford, commencing at the intersection of the westerly boundary of the City of Brantford and the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway No. 403 to the left bank of the Grand River facing downstream;

THENCE southeasterly along the said left bank of the Grand River to the westerly boundary of the City of Brantford;

THENCE northerly along the westerly boundary of the City of Brantford to the point of commencement;

THIRDLY, part of the Township of Brantford, commencing at the southwestern angle of Lot 42 in Concession II of the said Township;

THENCE easterly along the northerly limit of the road allowance between Concessions II and III to the easterly limit of the road allowance between Lots 42 and 43 in the said Township;

THENCE southerly along the easterly limit of the road allowance between Lots 42 and 43 to the northerly limit of the right of way of the Canadian National Railway;

THENCE westerly and northerly following the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

FOURTHLY, part of the Township of Brantford commencing at the intersection of the southerly boundary of the City of Brantford and the easterly limit of the right-of-way of the abandoned Lake Erie and Northern Railway;

THENCE southerly along the said eastern limit to the most westerly angle of a parcel of land designated as Part I on a Reference Plan deposited in the Land Registry Office for the Registry Division of Brant (No. 2) as Plan 2R-399;

THENCE north 63° 11' 45" west along the south western limit of the lands described in Registered Instrument Number A163668, a distance of 1,634.493 metres to the southeasterly limit of Shellard Lane;

THENCE south $50^{\circ} 35'$ west along the southeasterly limit of Shellard Lane 110.96 metres to the southeasterly production of the southerly limit of the lands described in Registered Instrument Number A37439 for the Township of Brantford;

THENCE westerly to and along the southerly limit of the lands of the said Ontario Water Resources to the easterly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southwesterly and northwesterly along the southerly limits of the last mentioned lands to the southeasterly limit of Block 4 in the Kerr Tract in the Township of Brantford;

THENCE southwesterly along the southeasterly limit of the said Block 4 to the northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE northwesterly along the northeasterly limit of the said lands of A. and M. House and the northwesterly prolongation thereof to the northwesterly limit of the right-of-way of the Canadian National Railway;

THENCE northeasterly along the northwesterly limit of the said Railway right-of-way to the westerly limit of the lands of Bruce Patterson described in Registered Instrument Number 39657;

THENCE northerly along the westerly limit of the lands of Bruce Patterson and the northerly prolongation thereof to the centre line of the King's Highway No. 53;

THENCE easterly along the centre line of the said Highway No. 53 to the westerly boundary of the City of Brantford;

THENCE southeasterly along the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

FIFTHLY, part of the Township of Brantford, commencing at the intersection of the easterly limit of Johnson Road and the southerly limit of the King's Highway No. 403;

THENCE easterly along the southerly limit of the said Highway No. 403 to the southerly limit of the right-of-way of the Toronto, Hamilton and Buffalo Railway;

THENCE westerly along the southerly limit of the said Railway right-of-way to the northerly prolongation of the easterly limit of Lot 15 as shown on Registered Plan No. 29;

THENCE southerly to and along the easterly limit of the said Lot 15 to the southeasterly angle of the said Lot 15;

THENCE southerly along the southerly prolongation of the easterly limit of the said Lot 15 to the middle of the main channel of the Grand River;

THENCE westerly along the middle of the said channel to the southeasterly angle of the City of Brantford;

THENCE northeasterly following along the boundaries between the City of Brantford and the Township of Brantford to the point of commencement;

SIXTHLY, part of Lots 26 and 27 in Concession II of the said Township of Brantford which, premising that all bearings herein are astronomic and referred to the bearing of the southern limit of the northern half of the said Lots being $N. 77^{\circ} 13' 30'' E.$ shown on a Reference Plan deposited in the Land Registry Office for the

Registry Division of Brant (No. 2) as Plan 2R-1324, more particularly described as follows:

COMMENCING at the southeasterly angle of the north half of Lot 27 in Concession II of the Township of Brantford;

THENCE south $77^{\circ} 13' 30''$ west along the southerly limit of the north half of Lots 27 and 26 a distance of 811.338 metres to the southwesterly angle of the north half of Lot 26;

THENCE north $16^{\circ} 06'$ west along the said Lot a distance of 256.770 metres;

THENCE north $77^{\circ} 13' 30''$ east 403.665 metres to a point in the western limit of the said Lot 27;

THENCE north $15^{\circ} 55' 30''$ west 100 metres to a point;

THENCE north $77^{\circ} 13' 30''$ east 90 metres to a point;

THENCE north $49^{\circ} 51' 20''$ east 169.588 metres to a point;

THENCE north $77^{\circ} 13' 30''$ east 160.078 metres to a point in the easterly limit of the said Lot 27;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of the said Lot, a distance of 435 metres to the point of commencement.

SCHEDULE B

AREAS TO BE ANNEXED TO THE CITY OF BRANTFORD ON THE 1ST DAY OF JANUARY, 1996

The portion of the Township of Brantford described as follows:

COMMENCING at the intersection of the left bank of the Grand River facing downstream and the centre line of the King's Highway No. 403;

THENCE easterly along the centre line of the said Highway No. 403 to the northeasterly limit of the right-of-way of the Canadian National Railway;

THENCE northwesterly along the northeasterly limit of the said Railway right-of-way to intersect a line parallel with and distant 45.720 metres measured southerly at right angles from the northerly limit of Concession II in the Township of Brantford;

THENCE westerly along the said parallel line to the easterly limit of Lot 18 in the said Concession II;

THENCE southerly along the easterly limit of Lot 18 to intersect a line parallel with and distant 121.920 metres measured southerly at right angles from the northerly limit of the said Concession II;

THENCE westerly along the said parallel line to the left bank of the Grand River facing downstream;

THENCE southerly along the said left bank to the point of commencement.

SCHEDULE C

RESTRICTED TO AGRICULTURE AND RELATED USES AREA

That part of the Township of Brantford commencing at the northwest angle of Lot 24, Concession I;

THENCE easterly along the south limit of Highways No. 5 and 99 to the middle line of Fairchilds Creek in Lot 46, Concession I;

THENCE following the middle line of Fairchilds Creek downstream through all its turnings to the boundary between the Township of Brantford and the Township of Onondaga;

THENCE westerly following said boundary to a point on the south limit of Old Onondaga Road, said point being on a line drawn at right angles to Old Onondaga Road and intersecting the north limit of Old Onondaga Road and its intersection with the west limit of an unnamed road allowance extending northerly into the John Westbrook Grant from Old Onondaga Road;

THENCE northerly at right angles from Old Onondaga Road to the point of intersection of the unnamed road allowance and the north limit of Old Onondaga Road;

THENCE north 10 degrees east 122.53 metres to a point;

THENCE south 77 degrees 23 minutes east 96.50 metres to a point;

THENCE north 26 degrees 45 minutes east 282.21 metres to a point;

THENCE north 62 degrees 48 minutes west 251.49 metres to a point;

THENCE north 63 degrees 40 minutes west 249.372 metres to a point;

THENCE north 64 degrees 6 minutes west 39.11 metres to a point;

THENCE north 25 degrees 54 minutes east to a point on the limit of the Grand River Conservation Authority flood plain for Fairchilds Creek;

THENCE following said limit northeasterly to its point of intersection with the west limit of the Brant School Road;

THENCE northwesterly following the west limit of Brant School Road and its projection to the north side of the King's Highway No. 2;

THENCE easterly following the north limit of the said Highway No. 2 to the southwest angle of the Township Cemetery Plot in the Daniel Hawley Tract;

THENCE north following the west limit of the Township Cemetery Plot to the middle line of Fairchilds Creek;

THENCE following the middle line of Fairchilds Creek upstream to a point distant 121.92 metres measured northerly at right angles from the northerly limit of Highway No. 2;

THENCE westerly parallel with the north limit of Highway No. 2 to a point distant 121.92 metres easterly from the east limit of Papple Road;

THENCE northerly parallel to Papple Road to the south limit of the Toronto, Hamilton and Buffalo Railway;

THENCE southwesterly along the south limit of the said Railway to its point of intersection with the west limit of the King's Highway No. 403;

THENCE following the west limit of the said Highway No. 403 and also the existing City boundary and its extension to the north limit of Lynden Road;

THENCE westerly along the north limit of Lynden Road to the southwest angle of Lot 42, Concession II, being the existing City boundary;

THENCE following the existing City boundary to the south limit of Powerline Road;

THENCE westerly along the south limit of Powerline Road to a point distant 79.86 metres east of the eastern boundary of Francis Street;

THENCE northerly at right angles 117.65 metres to a point;

THENCE westerly parallel with the north limit of Powerline Road to a point distant 91.44 metres measured easterly at right angles from the east limit of the King's Highway No. 24;

THENCE northerly parallel with Highway No. 24 to a point, said point being drawn on a line at right angles from the said Highway No. 24 and measured 620.77 metres northerly along the centreline of said road from the south limit of Powerline Road;

THENCE westerly at right angles from the said Highway No. 24, 91.44 metres to the east limit of the said Highway;

THENCE southerly along the easterly limit of the said Highway to the south limit of Powerline Road;

THENCE westerly following the south limit of Powerline Road to the northeast angle of Lot 27, Concession II;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of Lot 27 to a point distant 435 metres measured northerly therealong from the southeasterly angle of the north half of the said Lot;

THENCE south $77^{\circ} 13' 30''$ west 160.078 metres to a point;

THENCE south $49^{\circ} 51' 20''$ west 169.588 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 90 metres to the westerly limit of Lot 27;

THENCE south $15^{\circ} 55' 30''$ east along the said westerly limit 100 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 403.665 metres to the westerly limit of Lot 26 in the said Concession II;

THENCE south $16^{\circ} 06'$ east along the westerly limit of the said Lot, 256.77 metres to the southwesterly angle of the north half of the said Lot 26;

THENCE southerly along the west limit of Lot 26 to the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway 403 to the north limit of the Canadian National Railway line;

THENCE northwesterly along the northerly limit of the said Railway to a line parallel with and distant 45.72 metres measured southerly at right angles from the southerly limit of Powerline Road;

THENCE westerly and parallel with the southerly limit of Powerline Road to a point on the westerly limit of Oak Park Road;

THENCE southerly along the westerly limit of Oak Park Road 76.20 metres to a point;

THENCE westerly parallel with the southerly limit of Powerline Road to the left bank of the Grand River facing downstream;

THENCE following the said left bank of the Grand River facing downstream through its various turnings to the existing City boundary and following the said boundary to a point that lies on the extension of the limit between Blocks 2 and 3 in the Kerr Tract, also being the existing City boundary;

THENCE following the existing City boundary southerly and westerly and continuing along the middle line of Oak Hill Drive to the southerly extension of the east limit of Jennings Road;

THENCE northerly along the east limit of Jennings Road to a point lying on the mid line of Concession IV;

THENCE westerly following the centre line of Concession IV to a point on the west limit of the Airport lands owned by the City of Brantford;

THENCE southerly along the west limit of the Airport lands and its extension to a point 121.92 metres south of the south limit of the King's Highway No. 53;

THENCE easterly parallel with Highway No. 53 to a point on the centre line in Lot 15, Concession V;

THENCE southerly parallel with the west limit of Lot 15 to a point on the northerly limit of Block 1 in the Kerr Tract;

THENCE easterly following the north limit of the Kerr Tract to the southeast angle of Lot 16, Concession V;

THENCE northerly along the east limit of Lot 16, Concession V to a point in the southerly limit of the King's Highway No. 53;

THENCE easterly along the southerly limit of the said Highway No. 53 to the westerly limit of Pleasant Ridge Road;

THENCE southerly along the west limit of Pleasant Ridge Road to the southerly limit of the Canadian National Railway right-of-way;

THENCE northeasterly along the southeasterly limit of the said Railway to the northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE southeasterly along the northeasterly limit of the said lands to the northwesterly limit of Block 5 in the Kerr Tract;

THENCE northeasterly along the northwesterly limit of the said Block 5 to the westerly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southeasterly along the southwesterly limit of the Ontario Water Resources described in Instrument numbers A37389 and A37439 to the northwesterly limit of Shellard Lane;

THENCE south 39° 25' east to the southeasterly limit of Shellard Lane;

THENCE north 50° 35' east along the said southeasterly limit to the westerly angle of lands described in Registered Instrument Number A163668;

THENCE south 63° 11' 45" east along the southwesterly limit of the said lands 1,634.493 metres to the easterly limit of the lands of the Lake Erie and Northern Railway;

THENCE following the east limit of said railway to the easterly limit of Conklin Road;

THENCE southerly following the easterly limit of Conklin Road to the southerly limit of Mt. Pleasant Road;

THENCE easterly along the southerly limit of Mt. Pleasant Road 244.75 metres to a point;

THENCE south 37 degrees 41 minutes east 489.45 metres to a point;

THENCE easterly in a straight line to the southwest angle of Registered Plan 966;

THENCE easterly following the southerly limit of said plan to the southeast angle of Registered Plan 966;

THENCE northerly following the easterly limit of said plan and its extension to the middle line of the Grand River;

THENCE following the middle line of the Grand River downstream through all its turnings to a point distant 152.4 metres measured southerly at right angles from the southerly limit of Blossom Avenue;

THENCE following a line parallel with and distant 152.4 metres from the southerly limit of Blossom Avenue and its proposed extension from Mt. Pleasant Road to Pleasant Ridge Road to a point on the westerly limit of Pleasant Ridge Road;

THENCE following a line parallel with and distant 152.4 metres from the southerly limit of Arthur Road to a point on the east limit of the King's Highway No. 24;

THENCE northerly following the easterly limit of the said Highway No. 24 to the northerly limit of Robinson Road;

THENCE easterly along the northerly limit of Robinson Road to the easterly limit of Pottruff Road;

THENCE northerly along the easterly limit of Pottruff Road to the southerly limit of Powerline Road;

THENCE easterly following the south limit of Powerline Road to the southwest angle of Lot 24, Concession I;

THENCE northerly along the west limit of Lot 24 to the point of commencement.

SAVING AND EXCEPTING all those lands described as Lot 22 in Registered Plan 594.

SCHEDULE D

MUTUAL PLANNING ADVISORY COMMITTEE AREA

a) NORTH

COMMENCING at the northeast angle of Lot 40, Concession II;

THENCE westerly along the south side of Powerline Road to a point 79.86 metres easterly of the easterly limit of Francis Street;

THENCE northerly at right angles 117.65 metres to a point;

THENCE westerly parallel with the north limit of Powerline Road to a point distant 91.44 metres from the easterly limit of the King's Highway No. 24;

THENCE northerly and parallel with the said Highway No. 24 to a point, the said point being drawn on a line at right angles from the said Highway No. 24 distant 620.27 metres measured northerly from the centreline of said road from the south limit of Powerline Road;

THENCE westerly at right angles from the said Highway No. 24, 91.44 metres to the easterly limit of said Highway;

THENCE southerly along said easterly limit to the southerly limit of Powerline Road;

THENCE westerly following the southerly limit of Powerline Road to the northwest angle of Lot 28 in Concession II;

THENCE south $16^{\circ} 21' 50''$ east along the easterly limit of Lot 27 to a point distant 435.00 metres measured northerly therealong from the southeasterly angle of the north half of the said Lot;

THENCE south $77^{\circ} 13' 30''$ west 160.078 metres to a point;

THENCE south $49^{\circ} 51' 20''$ west 169.588 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 90.00 metres to the westerly limit of Lot 27;

THENCE south $15^{\circ} 55' 30''$ east along the said westerly limit 100.00 metres to a point;

THENCE south $77^{\circ} 13' 30''$ west 403.665 metres to the westerly limit of Lot 26 in the said Concession II;

THENCE south $16^{\circ} 06'$ east along the westerly limit of the said Lot, 256.77 metres to the southwest angle of the north half of the said Lot 26;

THENCE easterly to the southeast angle of the north half of Lot 28 in Concession II;

THENCE easterly following the existing City boundary to a point distant 336.71 metres more or less west of the western limit of the King's Highway No. 24 as widened;

THENCE southerly and parallel with the westerly limit of Lot 30 in Concession II, 314.0 metres more or less to a point;

THENCE easterly on a bearing of north 77 degrees 00 minutes east 140.74 metres to a point;

THENCE northerly on a bearing of north 15 degrees 39 minutes west 60.56 metres to a point;

THENCE easterly on a bearing of north 76 degrees 53 minutes east 100.22 metres to a point;

THENCE northerly on a bearing of north 14 degrees 25 minutes west 19.93 metres to a point;

THENCE easterly on a bearing of north 77 degrees 4 minutes east 95.28 metres more or less to a point on the westerly limit of the said Highway No. 24 as widened, said point being in the boundary between the City of Brantford and the Township of Brantford;

THENCE southerly and easterly following the existing City Boundary along its various courses and distances to its point of intersection with the southeasterly angle of the Rosewood Garden Subdivision Plan being the southeasterly angle of Lot 10, Registered Plan 1521;

THENCE following the former City-Township boundary prior to the 1974 annexation to its point of intersection with the existing City boundary (Garden Avenue);

THENCE continuing southerly along the existing boundary to its point of intersection with the centreline of the Grand River;

THENCE along the middle line of the Grand River downstream to its point of intersection with the boundary between the Township of Onondaga and the Township of Brantford;

THENCE following said boundary through its various courses and distances to a point on the south limit of Old Onondaga Road, said point being on a line drawn at right angles from Old Onondaga Road and intersecting the northerly limit of Old Onondaga Road and its intersection with the westerly limit of an unnamed road allowance extending northerly into the John Westbrook Grant from the Old Onondaga Road;

THENCE northerly at right angles from the Old Onondaga Road to the point of intersection of the unnamed road allowance and the northerly limit of Old Onondaga Road;

THENCE north 10 degrees east 122.53 metres to a point;

THENCE south 77 degrees 23 minutes east 96.50 metres to a point;

THENCE north 26 degrees 45 minutes east 282.21 metres to a point;

THENCE north 62 degrees 48 minutes west 251.49 metres to a point;

THENCE north 63 degrees 40 minutes west 249.37 metres to a point;

THENCE north 64 degrees 6 minutes west 39.11 metres to a point;

THENCE north 25 degrees 54 minutes east to a point on the limit of the Grand River Conservation Authority Flood Plain for Fairchild's Creek;

THENCE following said limit northeasterly to its point of intersection with the westerly limit of Brant School Road;

THENCE following the westerly limit of Brant School Road and its projection to the north side of the King's Highway No. 2;

THENCE easterly following the north limit of the said Highway No. 2 to the southwest angle of the Township Cemetery Plot in the Daniel Hawley Tract;

THENCE north following the west limit of the Township Cemetery Plot to the middle line of Fairchilds Creek;

THENCE following the middle line of Fairchilds Creek upstream to a point distant 121.92 metres measured northerly at right angles from the northerly limit of the said Highway No. 2;

THENCE westerly parallel to the north limit of King's Highway No. 2 to a point distant 121.92 metres easterly from the easterly limit of Papple Road;

THENCE northerly parallel to Papple Road to the south limit of the Toronto, Hamilton and Buffalo Railway;

THENCE southwesterly along the southerly limit of the said Railway to the westerly limit of the King's Highway No. 403;

THENCE following the west limit of the said Highway 403 and also the existing City boundary and its extension to the north limit of Lynden Road;

THENCE westerly along the northerly limit of Lynden Road to the existing City boundary;

THENCE following said boundary to the point of commencement.

b) NORTHWEST

COMMENCING at the intersection of a line between Lots 25 and 26 in Concession II and the centre line of the King's Highway No. 403;

THENCE westerly along the centre line of the said Highway No. 403 to the northerly limit of the Canadian National Railway right-of-way;

THENCE northwesterly along the northerly limit of the said Canadian National Railway to its point of intersection with a line drawn at right angles from the south limit of Powerline Road and distant 45.72 metres measured east-westerly therefrom;

THENCE westerly and parallel to the south limit of Powerline Road to a point on the west limit of Oak Park Road;

THENCE southerly along the west limit of Oak Park Road 76.2 metres to a point;

THENCE westerly parallel with the southerly limit of Powerline Road to the left bank of the Grand River facing downstream;

THENCE following the left bank of the Grand River downstream through its various turnings to its point of intersection with the existing City boundary being also the limit between Lots 25 and 26 in Concession III;

THENCE northerly along said boundary to the point of commencement.

c) SOUTHWEST

COMMENCING at a point in the mid line of the Grand River and its intersection with the extension of the limit between Blocks 2 and 3 in the Kerr Tract, also being the existing City boundary;

THENCE following the existing City boundary southerly and westerly and continuing along the middle line of Oak Hill Drive to the southerly extension of the east limit of Jennings Road;

THENCE northerly along the east limit of Jennings Road to a point lying on the mid line of Concession IV;

THENCE westerly following the centre line of Concession IV to a point on the west limit of the Airport lands owned by the City of Brantford;

THENCE southerly along the west limit of the Airport lands and its extension to a point 121.92 metres south of the south limit of the King's Highway No. 53;

THENCE easterly parallel with Highway No. 53 to a point on the centre line in Lot 15, Concession V;

THENCE southerly parallel with the west limit of Lot 15 to a point on the northerly limit of Block 1 in the Kerr Tract;

THENCE easterly following the north limit of the Kerr Tract to the southeast angle of Lot 16, Concession V;

THENCE northerly along the east limit of Lot 16, Concession V to a point in the southerly limit of the King's Highway No. 53;

THENCE easterly along the southerly limit of the said Highway No. 53 to the westerly limit of Pleasant Ridge Road;

THENCE southerly along the west limit of Pleasant Ridge Road to the southerly limit of the Canadian National Railway right-of-way;

THENCE northeasterly along the southeasterly limit of the said Railway to northeasterly limit of the lands of A. and M. House described in Registered Instrument Number A125471;

THENCE southeasterly along the northeasterly limit of the said lands to the northwesterly limit of Block 5 in the Kerr Tract;

THENCE northeasterly along the northwesterly limit of the said Block 5 to the westerly angle of the lands of the Ontario Water Resources described in Registered Instrument Number A37389;

THENCE southeasterly along the southwesterly limit of the Ontario Water Resources described in Instrument Number A37389 and A37439 to the northwesterly limit of Shellard Lane;

THENCE south $39^{\circ} 25'$ east to the southeasterly limit of Shellard Lane;

THENCE north $50^{\circ} 35'$ east along the said southeasterly limit to the westerly angle of lands described in Registered Instrument Number A163668;

THENCE south $63^{\circ} 11' 45''$ east along the southwesterly limit of the said lands 1,634.493 metres to the easterly limit of the lands of the Lake Erie and Northern Railway;

THENCE following the easterly limit of said railway to its point of intersection with the easterly limit of Conklin Road;

THENCE southerly following the east limit of Conklin Road to the southerly limit of Mt. Pleasant Road;

THENCE easterly along the southerly limit of Mt. Pleasant Road 244.75 metres to a point;

THENCE south 37 degrees 41 minutes east 489.45 metres to a point;

THENCE easterly in a straight line to the southwest angle of Registered Plan 966;

THENCE easterly following the southern limit of said plan to the southeast angle of Registered Plan 966;

THENCE northerly following the east limit of said plan and its extension to the middle line of the Grand River;

THENCE following the existing City boundary to the north limit of Bell Lane;

THENCE northwesterly in a straight line to the point of intersection of the Canadian National Railway right-of-way and Colborne Street West;

THENCE due north to the middle line of the Grand River;

THENCE following the middle line of the Grand River upstream to the point of commencement.

And together with all those lands described as Lot 22 in Registered Plan 594.

An Act respecting
the City of Brantford, the Township
of Brantford and the County of Brant

1st Reading

June 12th, 1980

2nd Reading

June 17th, 1980

3rd Reading

June 19th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to vest Certain Lands in
The Regional Municipality of Ottawa-Carleton**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTE

The Bill vests certain lands in The Regional Municipality of Ottawa-Carleton for the purposes of a transit way. Provision is made for the payment of compensation in an amount to be agreed upon. Failing agreement, the Land Compensation Board is empowered to determine the amount of the compensation.

BILL 121 Act to amend the Land Acquisition Act, 1970 **1980**

**An Act to vest Certain Lands in
The Regional Municipality of Ottawa-Carleton**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Regional Corporation" means The Regional Municipality of Ottawa-Carleton. Interpretation

2. The lands and the interests therein described in Schedules A, B and C are hereby vested in the Regional Corporation and the Regional Corporation is entitled to possession thereof. Lands vested in Regional Corporation

3.—(1) The Regional Corporation shall pay to the owner of the lands mentioned in Schedules A, B and C such compensation therefor as may be agreed upon. Compensation

(2) Where the Regional Corporation and the owner fail to agree on the amount of compensation to be paid, either the Regional Corporation or the owner may apply to the Land Compensation Board to determine the amount of compensation and the Board shall, in accordance as nearly as may be with the provisions of *The Expropriations Act*, determine the compensation to be paid and the Board's determination is final. Application to Land Compensation Board
R.S.O. 1970, c. 154

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. The short title of this Act is *The Regional Municipality of Ottawa-Carleton Land Acquisition Act, 1980*. Short title

SCHEDULE A

Lands vested in fee simple.

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, in The Regional Municipality of Ottawa-Carleton, and Province of Ontario, and being composed of all that portion of Lot "G" in Concession "D", Rideau Front, formerly in the Township of Nepean, and now in the City of Ottawa, designated as Parts 1, 2, 4, 5, 7 and 8 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5009.

SUBJECT TO an easement as set out in Instrument Number 498339, registered in the said Registry Office, over the said Parts 5 and 8, and

SUBJECT TO a right-of-way as set out in the said Instrument Number 498339 over the said Parts 7 and 8.

SCHEDULE B

Lands on, over and under which a permanent easement is vested for the construction, maintenance, operation and repair of underground storm and sanitary sewers.

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, in The Regional Municipality of Ottawa-Carleton, and Province of Ontario, and being composed of all that portion of Lot "G" in Concession "D", Rideau Front, formerly in the Township of Nepean, and now in the City of Ottawa, designated as Parts 3 and 6 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5009.

SCHEDULE C

Lands on, over and under which a temporary easement is vested for construction purposes to facilitate the construction of a transit way on the lands described in Schedules A and B until such construction has been completed.

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, in The Regional Municipality of Ottawa-Carleton, and Province of Ontario, and being composed of all that portion of Lot "G" in Concession "D", Rideau Front, formerly in the Township of Nepean, and now in the City of Ottawa, designated as Parts 1 and 2 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5015 and Parts 3 and 6 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5009.

An Act to vest
Certain Lands in The Regional
Municipality of Ottawa-Carleton

1st Reading

June 12th, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 121

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to vest Certain Lands in The Regional Municipality of Ottawa-Carleton

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 121

1980

An Act to vest Certain Lands in The Regional Municipality of Ottawa-Carleton

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Regional Corporation" means The Regional Municipality of Ottawa-Carleton. Interpretation

2. The lands and the interests therein described in Schedules A, B and C are hereby vested in the Regional Corporation and the Regional Corporation is entitled to possession thereof. Lands vested in Regional Corporation

3.—(1) The Regional Corporation shall pay to the owner of the lands mentioned in Schedules A, B and C such compensation therefor as may be agreed upon. Compensation

(2) Where the Regional Corporation and the owner fail to agree on the amount of compensation to be paid, either the Regional Corporation or the owner may apply to the Land Compensation Board to determine the amount of compensation and the Board shall, in accordance as nearly as may be with the provisions of *The Expropriations Act*, determine the compensation to be paid and the Board's determination is final. Application to Land Compensation Board
R.S.O. 1970, c. 154

4. This Act comes into force on the day it receives Royal Assent. Commencement

5. The short title of this Act is *The Regional Municipality of Ottawa-Carleton Land Acquisition Act, 1980*. Short title

SCHEDULE A

Lands vested in fee simple.

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, in The Regional Municipality of Ottawa-Carleton, and Province of Ontario, and being composed of all that portion of Lot "G" in Concession "D", Rideau Front, formerly in the Township of Nepean, and now in the City of Ottawa, designated as Parts 1, 2, 4, 5, 7 and 8 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5009.

SUBJECT TO an easement as set out in Instrument Number 498339, registered in the said Registry Office, over the said Parts 5 and 8, and

SUBJECT TO a right-of-way as set out in the said Instrument Number 498339 over the said Parts 7 and 8.

SCHEDULE B

Lands on, over and under which a permanent easement is vested for the construction, maintenance, operation and repair of underground storm and sanitary sewers.

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, in The Regional Municipality of Ottawa-Carleton, and Province of Ontario, and being composed of all that portion of Lot "G" in Concession "D", Rideau Front, formerly in the Township of Nepean, and now in the City of Ottawa, designated as Parts 3 and 6 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5009.

SCHEDULE C

Lands on, over and under which a temporary easement is vested for construction purposes to facilitate the construction of a transit way on the lands described in Schedules A and B until such construction has been completed.

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the City of Ottawa, in The Regional Municipality of Ottawa-Carleton, and Province of Ontario, and being composed of all that portion of Lot "G" in Concession "D", Rideau Front, formerly in the Township of Nepean, and now in the City of Ottawa, designated as Parts 1 and 2 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5015 and Parts 3 and 6 on a Plan deposited in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as 5R-5009.

An Act to vest
Certain Lands in The Regional
Municipality of Ottawa-Carleton

1st Reading

June 12th, 1980

2nd Reading

June 17th, 1980

3rd Reading

June 19th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act respecting the Police Village of St. George

**THE HON. T. L. WELLS
Minister of Intergovernmental Affairs**

EXPLANATORY NOTES

The purposes of this Bill are:

1. To expand the area of the Police Village of St. George for the period from the 1st day of July, 1980 until the 31st day of December, 1980, thereby permitting the trustees of the Police Village to supply hydro-electric power to a proposed subdivision adjacent to the Police Village.
2. To dissolve the Police Village of St. George effective the 1st day of January, 1981.
3. To establish, effective the 1st day of January, 1981,
 - (i) a hydro-electric commission for the area of the former Police Village,
 - (ii) an urban service area for the provision of garbage collection, street lighting, sidewalks and sewer and water services.

BILL 122 1980

An Act respecting the Police Village of St. George

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Effective the 1st day of July, 1980, the area of the Police Village of St. George is increased by adding to it the lands described in the Schedule hereto. Area increased

2. Notwithstanding the provisions of *The Municipal Elections Act, 1977*, there shall not be a general election in the year 1980 for the purpose of electing trustees for the Police Village of St. George. No election in 1980
1977, c. 62

3. The trustees of the Police Village of St. George in office on the 30th day of November, 1980 shall continue in office until the 31st day of December, 1980. Trustees continued in office

4. The Police Village of St. George is dissolved on the 1st day of January, 1981. Police Village dissolved

5.—(1) In this section, "Commission" means The Hydro-Electric Commission of South Dumfries established under subsection 2. Interpretation

(2) A hydro-electric commission, to be known as The Hydro-Electric Commission of South Dumfries, is hereby established for the area of the Police Village of St. George as it existed on the 31st day of December, 1980. Commission established

(3) The Commission shall be deemed to be a commission established under Part III of *The Public Utilities Act* and shall be deemed to be a local board of the Township of South Dumfries. Application of R.S.O. 1970, c. 390, local board

(4) The Commission shall consist of the reeve of the Township of South Dumfries, who shall be an *ex officio* member, and three other members appointed by the council of the said Township Composition of Commission, term of office

from among the persons eligible to be elected to municipal office who reside in the area served by the Commission and a member of the Commission shall hold office for the same term as the members of council or until his successor is appointed.

First
Commission

(5) Notwithstanding subsection 4, for the term ending on the 30th day of November, 1982, the members of the Commission shall be the reeve of the Township of South Dumfries, who shall be an *ex officio* member, and the Trustees of the Police Village of St. George in office on the 31st day of December, 1980.

Commis-
sioners not
ineligible
for election

(6) A member of the Commission is not disqualified to be elected as a member of a municipal council or to sit on or vote therein only by reason of being a member of the Commission.

Assets and
liabilities
transferred
to
Commission

(7) All the assets and liabilities of and pertaining to the hydro-electric distribution system of the Police Village of St. George as it existed on the 31st day of December, 1980 shall be assumed on the 1st day of January, 1981 by the Commission.

Urban
service area
established

6. The area of the Police Village of St. George as it existed on the 31st day of December, 1980 is hereby established as an urban service area for the provision of garbage collection, street lighting, sidewalks and sewer and water services.

Deemed
orders of
O.M.B.

7. For the purposes of every Act, the dissolution provided for in section 4 and the establishment of the urban service area provided for in section 6 shall be deemed to have been effected by orders of the Ontario Municipal Board not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of that Act, pursuant to applications made under section 25 of *The Municipal Act* and, subject to the provisions of this Act, the Ontario Municipal Board, upon the application of the Township of South Dumfries or any local board thereof or of its own motion, may exercise its powers consequent upon such dissolution or establishment, and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

R.S.O. 1970,
cc. 323, 284

Commence-
ment

8.—(1) This Act, except sections 5 and 6, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5 and 6 come into force on the 1st day of January, 1981.

Short title

9. The short title of this Act is *The Police Village of St. George Act, 1980*.

SCHEDULE

THAT portion of the Township of South Dumfries described as follows:

COMMENCING at a point in the easterly limit of Lot 6 in Concession II of the Township of South Dumfries distant 56.327 metres measured southerly therealong from the northeasterly angle of the said Lot 6;

THENCE southerly along the easterly limit of the said Lot 6 a distance of 600.87 metres to the northerly angle of Part 1 as shown on a Plan deposited in the Land Registry Office for the Land Registry Division of Brant (No. 2) as Number 2R-1248;

THENCE southeasterly along the northeasterly limit of the said Part 1 a distance of 205.167 metres to the line between the north and south half of Lot 5 in the said Concession II;

THENCE southerly along the easterly limit of Part 2 as shown on the said Plan Numbered 2R-1248 to the southerly limit of the said Part 2;

THENCE westerly along the southerly limit of the said Part 2 to the easterly limit of the said Lot 6;

THENCE southerly along the easterly limit of the said Lot 6 to the easterly prolongation of the southerly limit of a Plan registered in the said Land Registry Office as Number 81;

THENCE westerly along the easterly prolongation of the southerly limit of the said Plan Number 81 to the southeasterly angle of the said Plan;

THENCE northerly along the easterly limit of the said Plan Number 81 to the northeasterly angle of Block R as shown on the said Plan Number 81;

THENCE northerly and parallel with the westerly limit of the said Lot 6 a distance of 438.159 metres to a point;

THENCE easterly and parallel with the northerly limit of the said Lot 6 a distance of 65.242 metres to a point;

THENCE northerly 150.69 metres to the southwesterly angle of Lot 2, Block T as shown on the said Plan Number 81;

THENCE easterly along the southerly limit of the said Lot 2 of the said Block T to the southeasterly angle of the said Lot 2;

THENCE easterly and parallel with the northerly limit of Lot 6 in the said Concession II a distance of 213.275 metres to the point of commencement.

An Act respecting
the Police Village of St. George

1st Reading

June 12th, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

BILL 122

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act respecting the Police Village of St. George

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

BILL 122 1980

An Act respecting the Police Village of St. George

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Effective the 1st day of July, 1980, the area of the Police Village of St. George is increased by adding to it the lands described in the Schedule hereto.

Area
increased

2. Notwithstanding the provisions of *The Municipal Elections Act, 1977*, there shall not be a general election in the year 1980 for the purpose of electing trustees for the Police Village of St. George.

No
election
in 1980
1977, c. 62

3. The trustees of the Police Village of St. George in office on the 30th day of November, 1980 shall continue in office until the 31st day of December, 1980.

Trustees
continued
in office

4. The Police Village of St. George is dissolved on the 1st day of January, 1981.

Police
Village
dissolved

5.—(1) In this section, "Commission" means The Hydro-Electric Commission of South Dumfries established under subsection 2.

Interpre-
tation

(2) A hydro-electric commission, to be known as The Hydro-Electric Commission of South Dumfries, is hereby established for the area of the Police Village of St. George as it existed on the 31st day of December, 1980.

Commission
established

(3) The Commission shall be deemed to be a commission established under Part III of *The Public Utilities Act* and shall be deemed to be a local board of the Township of South Dumfries.

Application of
R.S.O. 1970,
c. 390,
local board

(4) The Commission shall consist of the reeve of the Township of South Dumfries, who shall be an *ex officio* member, and three other members appointed by the council of the said Township

Composition
of
Commission,
term of
office

from among the persons eligible to be elected to municipal office who reside in the area served by the Commission and a member of the Commission shall hold office for the same term as the members of council or until his successor is appointed.

First
Commission

(5) Notwithstanding subsection 4, for the term ending on the 30th day of November, 1982, the members of the Commission shall be the reeve of the Township of South Dumfries, who shall be an *ex officio* member, and the Trustees of the Police Village of St. George in office on the 31st day of December, 1980.

Commis-
sioners not
ineligible
for election

(6) A member of the Commission is not disqualified to be elected as a member of a municipal council or to sit on or vote therein only by reason of being a member of the Commission.

Assets and
liabilities
transferred
to
Commission

(7) All the assets and liabilities of and pertaining to the hydro-electric distribution system of the Police Village of St. George as it existed on the 31st day of December, 1980 shall be assumed on the 1st day of January, 1981 by the Commission.

Urban
service area
established

6. The area of the Police Village of St. George as it existed on the 31st day of December, 1980 is hereby established as an urban service area for the provision of garbage collection, street lighting, sidewalks and sewer and water services.

Deemed
orders of
O.M.B.

7. For the purposes of every Act, the dissolution provided for in section 4 and the establishment of the urban service area provided for in section 6 shall be deemed to have been effected by orders of the Ontario Municipal Board not subject to section 42 of *The Ontario Municipal Board Act* or to petition or appeal under section 94 or 95 of that Act, pursuant to applications made under section 25 of *The Municipal Act* and, subject to the provisions of this Act, the Ontario Municipal Board, upon the application of the Township of South Dumfries or any local board thereof or of its own motion, may exercise its powers consequent upon such dissolution or establishment, and sections 94 and 95 of *The Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of such powers.

R.S.O. 1970,
cc. 323, 284

Commence-
ment

8.—(1) This Act, except sections 5 and 6, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5 and 6 come into force on the 1st day of January, 1981.

Short title

9. The short title of this Act is *The Police Village of St. George Act, 1980*.

SCHEDULE

THAT portion of the Township of South Dumfries described as follows:

COMMENCING at a point in the easterly limit of Lot 6 in Concession II of the Township of South Dumfries distant 56.327 metres measured southerly therealong from the northeasterly angle of the said Lot 6;

THENCE southerly along the easterly limit of the said Lot 6 a distance of 600.87 metres to the northerly angle of Part 1 as shown on a Plan deposited in the Land Registry Office for the Land Registry Division of Brant (No. 2) as Number 2R-1248;

THENCE southeasterly along the northeasterly limit of the said Part 1 a distance of 205.167 metres to the line between the north and south half of Lot 5 in the said Concession II;

THENCE southerly along the easterly limit of Part 2 as shown on the said Plan Numbered 2R-1248 to the southerly limit of the said Part 2;

THENCE westerly along the southerly limit of the said Part 2 to the easterly limit of the said Lot 6;

THENCE southerly along the easterly limit of the said Lot 6 to the easterly prolongation of the southerly limit of a Plan registered in the said Land Registry Office as Number 81;

THENCE westerly along the easterly prolongation of the southerly limit of the said Plan Number 81 to the southeasterly angle of the said Plan;

THENCE northerly along the easterly limit of the said Plan Number 81 to the northeasterly angle of Block R as shown on the said Plan Number 81;

THENCE northerly and parallel with the westerly limit of the said Lot 6 a distance of 438.159 metres to a point;

THENCE easterly and parallel with the northerly limit of the said Lot 6 a distance of 65.242 metres to a point;

THENCE northerly 150.69 metres to the southwesterly angle of Lot 2, Block T as shown on the said Plan Number 81;

THENCE easterly along the southerly limit of the said Lot 2 of the said Block T to the southeasterly angle of the said Lot 2;

THENCE easterly and parallel with the northerly limit of Lot 6 in the said Concession II a distance of 213.275 metres to the point of commencement.

An Act respecting
the Police Village of St. George

1st Reading

June 12th, 1980

2nd Reading

June 17th, 1980

3rd Reading

June 19th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to provide for Rescue Services in Ontario

**MR. TAYLOR
(Simcoe Centre)**

EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment and operation of rescue services in Ontario. The Bill applies to services held out to the public as available for the rescue of persons requiring emergency attention. The Bill provides a procedure for licensing and regulating rescue services. The Bill also provides authority to the Lieutenant Governor in Council to make regulations respecting the instruction and training of rescue service personnel.

BILL 123

1980

An Act to provide for Rescue Services in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Rescue Services Appeal Board established by this Act;
- (b) "Director" means the Director of the Rescue Services Branch;
- (c) "Minister" means the member of the Executive Council to whom for the time being the administration of this Act is assigned;
- (d) "municipality" means a metropolitan or regional municipality;
- (e) "operator" means a person or corporation, including a municipal corporation, that owns or provides a rescue service and "operate" has a corresponding meaning;
- (f) "regulations" means the regulations made under this Act;
- (g) "rescue service" means a service held out to the public as available for the rescue of persons requiring emergency attention and includes the service of dispatching rescue assistance.

2. The Minister is responsible for the administration and enforcement of this Act. Administra-
tion of Act

3.—(1) Subject to section 8, the council of a municipality may pass by-laws for acquiring, maintaining and operating a rescue service. Municipal
rescue
service

Agreements	(2) The Minister and the council of a municipality may enter into agreements in respect of the acquisition, maintenance and operation of a rescue service.
Designation	(3) The Minister may designate a fire department as a rescue service for the purposes of this Act.
Functions of Minister	<p>4.—(1) It is the duty of the Minister and he has power,</p> <ul style="list-style-type: none"> (a) to ensure the development throughout Ontario of a balanced and integrated system of rescue services and of effectual communications facilities; (b) to require municipalities to establish, maintain and operate rescue services and intercommunication respecting rescue services; (c) to establish, maintain and operate, alone or in co-operation with others, rescue services, intercommunication systems in connection with rescue services and storage depots for the equipment and supply of equipment for rescue services; (d) to establish and operate, alone or in co-operation with one or more organizations, institutes and centres for the training of personnel for rescue services; (e) to establish regions and districts for the purposes of rescue services and the communications facilities therefor.
Delegation	(2) The Minister may, by order, delegate the duties of the Director under this Act to the Fire Marshal of Ontario.
Order of Minister	<p>5.—(1) Upon the request of the council of a municipality, the Minister may, where he considers to do so would provide an improved rescue service to the public, by order designate the council of the municipality as the sole authority to operate a rescue service in that municipality.</p>
Effect of order	<p>(2) Where the Minister makes an order under subsection 1,</p> <ul style="list-style-type: none"> (a) any person operating a rescue service in the municipality named in the order, other than the council of the municipality, shall cease operation on or before the day set out in the order; and (b) the municipality shall pay to any person required to cease operating a rescue service as a result of the order such sum of money by way of compensation for the value

of the rescue service to the operator as is consistent with the principles of law and equity.

(3) The licence of a person who is required to cease operating a rescue service as a result of an order of the Minister made under subsection 1 shall be deemed to have been cancelled on the day set out in the order and the provisions of sections 14, 15 and 16 do not apply to such cancellation.

Licence
deemed
cancelled

(4) The Director shall not issue a licence to operate a rescue service in a municipality named in an order made under subsection 1 to any applicant other than the council of the municipality, and the provisions of sections 14, 15 and 16 do not apply to any such refusal to issue a licence.

When
Director
not to
issue
licence

(5) The Minister may rescind any order made under subsection 1 and where the Minister does so subsection 4 ceases to have effect in respect of the municipality.

Minister
may
rescind
order

6.—(1) Where agreement cannot be reached as to the sum of money to be paid by the municipality under clause *b* of subsection 2 of section 5, either the municipality or the operator of the rescue service may serve upon the other notice that the municipality or the operator, as the case may be, desires that the amount of compensation be determined by arbitration under *The Arbitrations Act* and each party shall, within seven days of the service of the notice appoint a member of a board of arbitration, and a third member who shall be chairman shall be appointed within a further seven days by the two members so appointed.

Notice
requiring
arbitration

(2) Where a board of arbitration is appointed under subsection 1, the provisions of *The Arbitrations Act* apply as though a submission had been made under that Act.

Application of
R.S.O. 1970,
c. 25

7. No application to incorporate a corporation whose objects include the operation of a rescue service shall be proceeded with until it has first received the approval of the Minister.

Minister
to approve
applications
for incor-
poration

8. No person shall operate a rescue service except under the authority of a licence issued by the Director and the Director may issue a licence upon such terms and subject to such conditions as are specified in the licence or the regulations.

Operator's
licence

9. The Director may issue a temporary licence in accordance with the regulations to operate a rescue service for a definite period of time stated in the licence.

Temporary
licence

10.—(1) The Rescue Services Appeal Board is established and shall be composed of five members appointed by the Lieutenant Governor in Council, one of whom shall be designated by the Lieutenant Governor in Council as chairman of the Board.

Rescue
Services
Appeal
Board

Quorum

(2) Three members of the Board constitute a quorum and are sufficient for the exercise of all the jurisdiction and powers of the Board.

Members

(3) No employee of the Government of Ontario or of any agency of the Crown shall be appointed a member of the Board.

Remuneration

(4) The members of the Board shall be paid such remuneration for their services as the Lieutenant Governor in Council determines.

Grounds for refusal to issue

11. Subject to section 14, the Director may refuse to issue a licence,

- (a) where the proposed operation would be in contravention of this Act or the regulations;
- (b) where there is no public need for the rescue service to be operated pursuant to the licence in the area where the applicant proposes to operate;
- (c) where the applicant is not competent to operate or financially capable of operating the rescue service reliably; or
- (d) the past conduct of the applicant or, where the applicant is a corporation, of its officers or directors, affords reasonable grounds for belief that the rescue service will not be operated in accordance with law and with honesty and integrity.

Grounds for revocation, etc.

12. Subject to section 14, the Director may revoke, suspend or refuse to renew a licence for any reason for which he may refuse to issue the licence if the licensee were an applicant or where the licensee has contravened this Act or the regulations or is in breach of a condition of his licence.

Hearing re terms of licence

13.—(1) Where the Director issues a licence under this Act and the licensee is dissatisfied with the terms and conditions thereof prescribed by the Director, the licensee may by written notice given to the Director and the Board require a hearing by the Board and the Board shall appoint a time for and hold a hearing.

Powers of Board

(2) Pursuant to a hearing under subsection 1, the Board may affirm the terms and conditions prescribed for the licence by the Director or may cancel such terms and conditions or may prescribe such other terms and conditions for the licence in the place of those prescribed by the Director as it considers proper and such terms and conditions shall be terms and conditions of the licence.

Proposals to suspend, etc.

14.—(1) Where the Director proposes to refuse to issue or renew a licence or proposes to revoke or suspend a licence, he shall

serve notice of his proposal, together with written reasons therefor, on the applicant or licensee.

(2) A notice under subsection 1 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he mails or delivers, within fifteen days after the notice under subsection 1 is served on him, notice in writing requiring a hearing to the Director and the Board, and he may so require such a hearing.

Notice

(3) Where an applicant or licensee does not require a hearing by the Board in accordance with subsection 2, the Director may carry out the proposal stated in his notice under subsection 1.

Powers of
Director
where no
hearing

(4) Where an applicant or licensee requires a hearing by the Board in accordance with subsection 2, the Board shall appoint a time for and hold the hearing and, on the application of the Director at the hearing, may by order direct the Director to carry out his proposal or refrain from carrying out his proposal and to take such action as the Board considers the Director ought to take in accordance with this Act and the regulations, and for such purpose the Board may substitute its opinion for that of the Director.

Powers of
Board
where
hearing

(5) The Board may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.

Terms and
conditions

(6) The Board may extend the time for the giving of notice requiring a hearing by an applicant or licensee under this section either before or after expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the applicant or licensee pursuant to a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Extension of
time for
appeal

(7) Where, within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his licence shall be deemed to continue,

Continuation
of licence
pending
renewal

(a) until the renewal is granted; or

(b) where he is served with notice that the Director proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing by the Board has expired and, where a hearing is required, until the Board has made its decision.

15.—(1) The Director, the applicant or licensee who has required the hearing and such other persons as are specified by the Board are parties to proceedings before the Board under this Act.

Parties

Notice of
hearing

(2) Notice of a hearing under section 14 shall afford the applicant or licensee a reasonable opportunity to show or to achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Examination
of docu-
mentary
evidence

(3) An applicant or licensee who is a party to proceedings under section 14 shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members
holding
hearing
not to have
taken
part in
investigation,
etc.

(4) Members of the Board holding a hearing shall not have taken part in any investigation or consideration of the subject-matter of the hearing before the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording
of evidence

(5) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings
of fact

1971, c. 47

(6) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Only
members at
hearing to
participate
in decision

(7) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Review by
Minister

16.—(1) Upon the request of any party to the hearing before the Board, made within fifteen days after being served with a decision, the Minister shall review the record and the decision of the Board and the reasons therefor, and the Minister may confirm or alter the decision of the Director or direct the Director to do any act the Director is authorized to do under this Act and as the Minister considers proper, and the decision of the Minister is final on all matters except points of law.

Reasons

(2) The Minister shall give the reasons for his decision under subsection 1 to each of the parties to the hearing before the Board within thirty days after he receives the request for the review.

(3) Any person requesting a review under subsection 1 may appeal the Minister's decision on any point of law to the Supreme Court in accordance with the rules of court. Appeal to court

17. Except where otherwise provided, any notice required by this Act to be served shall be served personally or by registered mail addressed to the person to whom notice is to be given at his last known address and, where notice is served by registered mail, the service shall be deemed to have been made on the third day after the day of mailing unless the person to whom notice is given establishes that he did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice until a later date. Service of notices

18.—(1) The Minister may appoint inspectors for the purposes of this Act and the regulations and such appointments shall be in writing. Appointment of inspectors

(2) An inspector, upon the production of his appointment under subsection 1, may enter the business premises or conveyances of an operator at any time and may examine, extract information from and make copies of his books, accounts and records pertaining to the rescue service and may inspect the conveyances, supplies and equipment for the purpose of determining their compliance with the regulations. Powers of inspectors

(3) Each person employed in the administration of this Act, including any person making an inquiry, inspection or an investigation under this section shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry, inspection or investigation and shall not communicate any such matters to any other person except, Confidential matters

(a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations; or

(b) to his counsel; or

(c) with the consent of the person to whom the information relates.

19. Where a licensee is a corporation, the licensee shall notify the Director within fifteen days of any change in the officers or directors of the corporation. Notice of change in corporate management

20. Every licence, except a temporary licence, expires one year after it is issued. Expiration of licences

Liability of
rescue service
member

21. Where, in respect of a person who is ill, injured or unconscious as a result of an accident or other emergency, a member of a rescue service voluntarily renders emergency services or assistance at the scene of the accident or emergency, the rescue service member shall not be liable for damages for injuries to or the death of the person or damage to the property of the person arising from any act or omission of the rescue service member unless it is established that the injuries, death or damage to property was caused by the gross negligence of the rescue service member.

Regulations

22.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may make regulations,

- (a) prescribing the standards of rescue apparatus and equipment for rescue services and of their maintenance and repair and requiring the approval of the Director for the acquisition of such apparatus and equipment as are specified in the regulations;
- (b) governing the management, operation and use of rescue services, including insurance against liability in connection with their operation;
- (c) prescribing the records, books, audits and accounting system to be kept, made or followed by operators and the returns, reports and information to be submitted to the Director or the Minister;
- (d) prescribing the qualifications for persons employed in rescue services including their testing and examination, physical or otherwise;
- (e) providing for the issuing of licences and prescribing terms and conditions of licences;
- (f) requiring the payment of fees in connection with licences and applications therefor and prescribing the amounts thereof;
- (g) establishing and maintaining courses of instruction for the training of persons in rescue services;
- (h) providing for rescue services instructors for the purpose of assisting in the organization and training of municipal fire departments or rescue service units and in the development of other rescue service programs;
- (i) assisting in the formation of local associations or leagues or any other body of persons interested in developing and promoting the principles and practices of rescue service;

- (j) providing for advice and assistance to fire departments and government agencies in matters related to rescue service;
- (k) respecting the keeping of records and statistics related to rescue service operations;
- (l) prescribing the fees that may be charged by the operators of each class of rescue service for each kind of service provided, the methods and times of payment of such fees to the operators and the proportion thereof that may be charged to the person receiving rescue services;
- (m) respecting any matter necessary or advisable to carry out the intent and purpose of this Act.

(2) The regulations may provide that any provision is limited in its application to any specified class of rescue service, person or thing. Limited application

23.—(1) Subject to subsection 2, any person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000. Penalty

(2) Where a corporation is convicted of an offence under subsection 1, the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein. Corporations

(3) Any person who prevents or obstructs or attempts to prevent or obstruct an inspector from entering premises or making an inspection authorized by this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$500. Penalty

(4) No proceeding under this section shall be commenced more than one year after the time when the subject-matter of the proceeding arose. Limitation

24. The Minister shall not be held to be vicariously liable for the acts or omissions of operators or their employees. Minister not vicariously liable

25. No action shall be brought against an operator or an employee of an operator for the recovery of damages occasioned by negligence in the provision of rescue services after the expiration of one year from the time when the damages were sustained. Limitation period

26. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

27. The short title of this Act is *The Rescue Services Act*, 1980. Short title

An Act to provide for
Rescue Services in Ontario

1st Reading

June 12th, 1980

2nd Reading

3rd Reading

MR. TAYLOR
(Simcoe Centre)

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Residential Tenancies Act, 1979

MR. FOULDS

TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to extend the application of the rent review provisions of *The Residential Tenancies Act, 1979* to all rental units that are mobile homes or mobile home sites. Clause *d* of subsection 1 of section 134 of the Act currently exempts from the rent review provisions a rental unit that is a mobile home or mobile home site that was not occupied as a rental unit before the 1st day of January, 1976.

BILL 124

1980

**An Act to amend
The Residential Tenancies Act, 1979**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario enacts as
follows:

- 1.** Clause *d* of subsection 1 of section 134 of *The Residential Tenancies Act, 1979*, being chapter 78, is repealed. s. 134 (1) (*d*),
repealed
- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is *The Residential Tenancies Amendment Act, 1980*. Short title

An Act to amend
The Residential Tenancies Act, 1979

1st Reading

June 12th, 1980

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Funeral Services Act, 1976

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to require that a funeral director must provide an itemized price list to a purchaser of funeral services and supplies before the purchaser enters into an agreement for the provision of any funeral services and supplies.

An Act to amend The Funeral Services Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Funeral Services Act, 1976*, being chapter 83, is amended by adding thereto the following section: s. 36a,
enacted

36a.—(1) No person who is a licensee under this Act shall enter into an agreement to provide funeral services or funeral supplies to a purchaser unless that person has delivered to the purchaser before entering into the agreement an itemized price list setting out the full price for each service and supply proposed to be provided to the purchaser. Itemized
price list

(2) An agreement for the purchase and sale of funeral services and funeral supplies is not binding on the purchaser unless the purchaser has received the itemized price list as required by subsection 1. Where
agreement
not binding
on purchaser

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Funeral Services Amendment Act, 1980*. Short title

An Act to amend
The Funeral Services Act, 1976

1st Reading

June 13th, 1980

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Funeral Services Act, 1976

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to permit persons who are not funeral directors to provide funeral supplies.

BILL 126

1980

**An Act to amend
The Funeral Services Act, 1976**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *d* of section 1 of *The Funeral Services Act, 1976*, being chapter 83, is repealed and the following substituted therefor: s. 1 (d),
re-enacted

(d) "funeral services" means the services usually provided by a funeral director but does not include the providing of funeral supplies.

- 2.—(1) Subsection 1 of section 5 of the said Act is repealed and the following substituted therefor: s. 5 (1),
re-enacted

(1) No person shall engage in or hold himself out as engaging in providing funeral services unless he is licensed as a funeral director under this Act. Funeral
director's
licence

- (2) Subsection 3 of the said section 5 is repealed and the following substituted therefor: s. 5 (3),
re-enacted

(3) For the purposes of subsection 1, proof of the performance of one act in providing funeral services on one occasion is sufficient to establish engaging in providing funeral services to the public. Proof of
performance

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is *The Funeral Services Amendment Act, 1980*. Short title

An Act to amend
The Funeral Services Act, 1976

1st Reading

June 13th, 1980

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to revise
The Pits and Quarries Control Act, 1971**

THE HON. J. A. C. AULD
Minister of Natural Resources

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EXPLANATORY NOTES

This Bill flows from the Report of the Ontario Mineral Aggregate Working Party that was submitted to the Minister of Natural Resources in December, 1976.

The Working Party was established to recommend an effective and broadly acceptable mineral aggregate resource management policy for the Province of Ontario.

Many of the features of the Report and of this Bill are the result of the experience gained by the various interests concerned with *The Pits and Quarries Control Act, 1971*.

The new Act has three purposes:

1. To provide for the management of the aggregate and Crown aggregate resources of Ontario.
2. To control and regulate pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries.
3. To require the rehabilitation of land from which aggregate or Crown aggregate has been excavated.

BILL 127

1980

**An Act to revise
The Pits and Quarries Control
Act, 1971**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "aggregate" means gravel, sand, clay, shale, stone, earth or other prescribed material but does not include Crown aggregate;
- (b) "Board" means the Ontario Municipal Board;
- (c) "Commissioner" means the Mining and Lands Commissioner;
- (d) "Crown aggregate" means gravel, sand, clay, shale, limestone, dolomite, sandstone, marble, granite, quartz, feldspar, fluorspar, gypsum, diatomaceous earth, marl, peat or other prescribed material that is the property of the Crown, but does not include aggregate;
- (e) "Crown aggregate pit or quarry" means land from which consolidated or unconsolidated Crown aggregate, as the case may be, has been, is being or may be excavated;
- (f) "established pit or quarry" means a pit or quarry or a wayside pit or quarry from which, in the opinion of the Minister, a substantial amount of aggregate has been excavated within the two-year period immediately before the part of Ontario in which the pit or quarry or wayside pit or quarry is located was designated under subsection 2 of section 5;
- (g) "final rehabilitation" means rehabilitation done in accordance with this Act, the regulations, the conditions

of the licence or permit and the requirements of the site plan, after the excavation of aggregate or Crown aggregate, as the case may be, and the progressive rehabilitation, if any, have been completed;

R.S.O. 1970,
c. 201

- (h) "highway" has the same meaning as in *The Public Transportation and Highway Improvement Act* and includes an unopened road allowance;
- (i) "inspector" means any employee of the Ministry who is designated in writing by the Minister as an inspector for the purposes of this Act;
- (j) "licence" means a licence for a pit or quarry issued under this Act;
- (k) "licensee" means a person who holds a licence;
- (l) "Minister" means the Minister of Natural Resources;
- (m) "Ministry" means the Ministry of Natural Resources;
- (n) "permit" means a permit for a wayside pit or quarry or a Crown aggregate pit or quarry issued under this Act;
- (o) "permittee" means a person who holds a permit;
- (p) "pit" means land from which unconsolidated aggregate has been, is being or may be excavated, but does not include,
 - (i) an excavation for a building, a structure or a project of any kind that in the opinion of the Minister is not a pit, or
 - (ii) a wayside pit;
- (q) "prescribed" means prescribed by the regulations;
- (r) "progressive rehabilitation" means rehabilitation done sequentially in accordance with this Act, the regulations, the conditions of the licence or permit and the requirements of the site plan during the period that aggregate or Crown aggregate is being excavated;
- (s) "public authority" includes the Crown, a Crown agency within the meaning of *The Crown Agency Act*, a municipality or local board as defined in *The Municipal Affairs Act*, an authority within the meaning of *The Conservation Authorities Act*, and Ontario Hydro;

R.S.O. 1970,
cc. 100, 118,
78

(t) "quarry" means land from which consolidated aggregate has been, is being or may be excavated, but does not include,

(i) an excavation for a building, a structure or a project of any kind that in the opinion of the Minister is not a quarry, or

(ii) a wayside quarry;

(u) "regional municipality" includes a district municipality and The Municipality of Metropolitan Toronto;

(v) "regulations" means the regulations made under this Act;

(w) "rehabilitate" means to treat land from which aggregate or Crown aggregate has been excavated so that the use or condition of the land,

(i) is restored to its former use or condition, or

(ii) is changed to another use or condition that is or will be compatible with the use of adjacent land,

and "rehabilitation" has a corresponding meaning;

(x) "site" means the land to which a licence or permit or an application therefor relates;

(y) "Treasurer" means the Treasurer of Ontario and Minister of Economics;

(z) "wayside pit or quarry" means land from which consolidated or unconsolidated aggregate, as the case may be, has been, is being or may be excavated for use in a project of a public authority and that is located outside the limits of the right of way of a highway, but does not include a pit or quarry. 1971, c. 96, s. 1, *amended*.

PART I

GENERAL

2. The purposes of this Act are,

Purposes
of Act

(a) to provide for the management of the aggregate and Crown aggregate resources of Ontario;

- (b) to control and regulate pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries; and
- (c) to require the rehabilitation of the land from which aggregate or Crown aggregate has been excavated. *New.*

Administration
of Act

3.—(1) The Minister is responsible for the administration of this Act and the regulations.

Idem

(2) In administering this Act, the Minister may,

- (a) conduct research related to technical matters pertaining to the aggregate industry, including the transportation of aggregates and the rehabilitation of pits and quarries;
- (b) locate geological deposits that may yield aggregate of commercial qualities and quantities;
- (c) estimate from time to time the demand that will be made for aggregate and establish policies for the supply thereof;
- (d) collect, analyze and publish statistics related to the aggregate industry;
- (e) conduct studies related to the uses of aggregates and the economics and operations of the aggregate industry;
- (f) advise ministries and municipalities on planning matters related to aggregates, including the preparation and approval of official plans and restricted area by-laws;
- (g) conduct studies related to abandoned pits and quarries;
- (h) conduct studies on environmental matters related to pits and quarries;
- (i) convene conferences and conduct seminars and educational and training programs related to pits and quarries and the aggregate industry;
- (j) establish and maintain demonstration and experimental rehabilitation projects for pits and quarries; and
- (k) employ any person to perform work in connection with any matter mentioned in this Act. *New.*

4.—(1) The Minister may designate in writing any employee of the Ministry as an inspector for the purposes of this Act. 1971, c. 96, s. 1 (c), *amended*. Designation of inspectors

(2) An inspector may, for the purpose of carrying out his duties, Powers of inspectors

- (a) enter any land or business premises at any reasonable time;
- (b) require the production of a licence, a permit, a record respecting aggregate or Crown aggregate or rehabilitation, a report or a survey and may inspect and make copies thereof; and
- (c) alone, or in conjunction with other persons possessing special or expert knowledge, make examinations, tests or inquiries and take or remove samples of any material. 1971, c. 96, s. 13 (1), *amended*.

5.—(1) This Act and the regulations apply only in the parts of Ontario that have been designated under *The Pits and Quarries Control Act*, 1971 or that are designated under subsection 2. *New*. Present designated parts continued 1971, c. 96

(2) The Lieutenant Governor in Council may designate parts of Ontario in which this Act and the regulations apply. 1971, c. 96, s. 2, *amended*. Designation of parts

6. This Act, except Part V and, subject to subsection 2 of section 47, Part VI, binds the Crown and its agents. *New*. Act binds the Crown

PART II

PIT AND QUARRY LICENCES

7.—(1) Any person may apply to the Minister in the prescribed form, Application for licence

- (a) for a Class A licence to excavate annually more than 20,000 tonnes of aggregate from a pit or quarry; or
- (b) for a Class B licence to excavate annually 20,000 tonnes or less of aggregate from a pit or quarry.

(2) Every application for a licence shall be accompanied by, Idem

- (a) five copies of the site plan referred to in section 8;

- (b) if the application is for a Class A licence, five copies of the report referred to in section 9;
- (c) the information referred to in section 10; and
- (d) the prescribed application fee. 1971, c. 96, s. 4, *amended*.

Additional
information

(3) The Minister may require an applicant for a licence to furnish him with additional information in such form and manner as he considers necessary, and, until the information is furnished to his satisfaction, he may refuse to consider the application further. *New*.

Site plans
for Class A
licences

8.—(1) The site plan accompanying an application for a Class A licence shall show,

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the use of the land and the location and the use of the buildings and other structures within 150 metres of the site;
- (e) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (f) the location of the excavation setback limits;
- (g) the location of fences and any significant natural features;
- (h) the location of tree screens and the species and types of the trees;
- (i) the location of earth berms and their height and slope;
- (j) the topography of the site including existing and estimated final contours and spot elevations;
- (k) every entrance to and exit from the site;
- (l) all roads on the site;

- (m) the water table and any existing and proposed drainage facilities on the site;
- (n) the location of water wells within 150 metres of the site;
- (o) the maximum depth of excavation and whether it is intended to excavate below the water table;
- (p) the sequence or direction of operation; and
- (q) the progressive rehabilitation and final rehabilitation plans,

and may show such other information as the applicant considers advisable. 1971, c. 96, s. 4 (2), *amended*.

(2) The information required under subsection 1 shall be presented under three headings on at least three separate sheets of paper as follows: Idem

1. Existing Features
2. Sequence or Direction of Operation
3. Rehabilitation Plans,

and shall be at a scale of 1:2000, 1:5000 or in any particular case at such other scale as the Minister may approve.

(3) Every site plan accompanying an application for a Class A licence shall be certified by a professional engineer who is a member of the Association of Professional Engineers of the Province of Ontario, an Ontario land surveyor, who is a member of the Association of Ontario Land Surveyors, a landscape architect who is a member of the Ontario Association of Landscape Architects, or any other qualified person approved in writing by the Minister that the site plan has been prepared by him. *New.* Certification

(4) The site plan accompanying an application for a Class B licence shall be in the prescribed form and shall show, Site plans for Class B licences

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the existing and estimated final elevations of the site;

- (e) the use of the land and the location and use of the buildings and other structures within 150 metres of the site;
- (f) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (g) the location of the excavation setback limits;
- (h) the location of fences and any significant natural features;
- (i) the location of tree screens and the species and types of the trees;
- (j) the location of earth berms and their height and slope;
- (k) every entrance to and exit from the site;
- (l) existing and proposed drainage facilities on the site;
- (m) the sequence or direction of operation; and
- (n) the progressive rehabilitation and final rehabilitation plans,

and may show such other information as the applicant considers advisable. 1971, c. 96, s. 4 (3), amended.

Signature

(5) Every site plan accompanying an application for a Class B licence shall be signed by the applicant. *New.*

Report

9. The report accompanying an application for a Class A licence shall provide information,

- (a) as to the suitability of the rehabilitation plans having regard to the character of the surrounding lands;
- (b) respecting the quality and quantity of the aggregate on the site;
- (c) as to the main haulage routes to and from the site and the traffic density thereon;
- (d) supplementing clause *m* of subsection 1 of section 8;
- (e) describing the location and size of existing and proposed stockpiles of aggregate, topsoil and subsoil; and

(f) respecting any planning and land use considerations, and may provide such other information as the applicant considers advisable. *New.*

10. An applicant for a licence shall furnish information in a manner satisfactory to the Minister showing that the location of the land described in the site plan accompanying the application complies with any relevant restricted area by-law, but if the Minister is of the opinion that doubt exists as to whether or not there is compliance, he may require the applicant to refer the matter to the Supreme Court for a declaratory judgement on the matter. *New.*

Compliance
with
restricted
area
by-laws

11. The Minister in considering an application for a licence shall have regard to,

Matters to
be considered
by Minister

(a) any comments provided by the municipalities in which the site is located;

(b) proper management of the aggregate resources of the Province;

(c) the rehabilitation of the site;

(d) the main haulage routes to and from the site and the traffic density thereon;

(e) any possible effects on ground and surface water patterns;

(f) any related planning and land use considerations;

(g) the effect of the operation on nearby communities; and

(h) such other matters as he considers appropriate. 1971, c. 96, s. 6 (1), *amended*.

12.—(1) Where the Minister is satisfied that an application for a licence and the documents accompanying it comply with this Act and the regulations, he shall serve a copy of it and the documents accompanying it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information and comment. *New.*

Copies to
municipalities

(2) On the day that the Minister serves a copy of an application and the accompanying documents under subsection 1, he shall fix a day forty-five days hence as the last day upon which objections in writing may be served upon him. 1971, c. 96, s. 5 (1), *amended*.

Last day
for filing
objections

Notice by
Minister

(3) On the day that the Minister serves a copy of an application and the accompanying documents under subsection 1, the Minister shall serve the applicant with notice that the applicant must cause notice of his application in the prescribed form to be published forthwith in two successive issues of a newspaper having general circulation in the locality in which the site is located. 1971, c. 96, s. 5 (2), *amended*.

Notice of
publication

(4) As soon as the publication of the notice has been completed, the applicant shall notify the Minister thereof. *New*.

Notice of
objection

(5) Any person, including any municipality, may serve upon the Minister on or before the day fixed under subsection 2 a notice that he or it objects to the issue of the licence applied for and the reasons therefor.

Notice
requiring
hearing

(6) Any person who has served a notice under subsection 5 may, in addition, serve upon the Minister on or before the day fixed under subsection 2 a notice that he requires a hearing of the matter before the Board.

Reference
to Board
for a
hearing

(7) Upon receipt of a notice under subsection 6 that in the opinion of the Minister discloses an interest in the matter that is sufficiently substantial to warrant a hearing and is not frivolous or vexatious, he shall refer the application and the objections to the Board for a hearing. 1971, c. 96, s. 5 (3), *amended*.

Idem

(8) The Minister may, on his own motion, refer an application and the objections, if any, to the Board for a hearing. 1971, c. 96, s. 5 (4), *amended*.

What Board
may consider
at hearing
R.S.O. 1970,
c. 349

(9) Where, under *The Planning Act*, an application for an amendment to any relevant restricted area by-law is before the Board for a hearing and an application under this Act is referred to the Board under subsection 7 or 8, the Board may consider both matters at one hearing. *New*.

Issue of
licences

13.—(1) The Minister may in his discretion issue a licence subject to such conditions as he considers necessary.

Changes of
conditions

(2) The Minister may at any time add a condition to a licence or rescind or vary a condition of a licence.

Restricted
area
by-laws

(3) The Minister may, subject to subsection 4 of section 64 and subsection 5 of section 65, issue a licence only if the location of the pit or quarry complies with any relevant restricted area by-law. 1971, c. 96, s. 6 (2), *amended*.

Copies to
municipalities

(4) Where the Minister has issued a licence, he shall serve a copy of it upon the clerk of the regional municipality or county, as

the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

14.—(1) Every licensee shall pay to the Treasurer on or before the 15th day of March in each year his annual licence fee for the previous year calculated in accordance with the regulations and, if it is not so paid, the Minister may revoke the licence. Annual licence fees

(2) When a licence is revoked under subsection 1, subsections 2 to 6 of section 21 do not apply. No notice or hearing

(3) The prescribed percentage of the total of the annual licence fees shall be disbursed to such municipalities and in such amounts and manner as are prescribed. Disbursal of annual licence fees

(4) The prescribed percentage of the total of the annual licence fees shall be set apart as a fund for the purposes mentioned in subsection 2 of section 33. *New.* Rehabilitation of abandoned pits and quarries

15. Every licensee shall operate his pit or quarry in accordance with this Act, the regulations, the conditions of his licence and the requirements of his site plan. 1971, c. 96, ss. 3, 4 (4), *part, amended.* Duties of licensees

16.—(1) The Minister may at any time require a licensee to amend his site plan. *New.* Amendment of site plans

(2) A licensee may, with the approval in writing of the Minister, at any time amend his site plan. 1971, c. 96, s. 4 (4), *part, amended.* Idem

17.—(1) The Minister at least once a year shall, Annual inspection and review

(a) inspect each site; and

(b) review each site plan and the conditions of each licence,

for the purpose of assessing the licensee's compliance with this Act, the regulations, the conditions of the licence and the requirements of the site plan. 1971, c. 96, s. 7 (1), *amended.*

(2) For the purpose of each fifth review under subsection 1, the Minister shall request in writing the council of the regional municipality or county, as the case may be, and the council of the local municipality in which each pit or quarry is located to send to him within forty-five days after receiving the request their comments respecting each pit or quarry. Municipal comments every five years

(3) Where a site plan is served upon the Minister under subsection 5 of section 64, each fifth year for the purpose of subsection 2 Idem

shall be calculated from the year in which such service is made upon the Minister. *New.*

Transfer of
licences

18.—(1) Upon application in the prescribed form accompanied by the prescribed transfer fee and the documents required under clauses *a* and *b* of subsection 2 of section 7, the Minister may consent to the transfer of a licence. 1971, c. 96, s. 14, *amended.*

Transfer of
rehabilitation
security

(2) Upon the transfer of a licence, any sum in the rehabilitation security account of the transferor shall be transferred to an account in the name of the transferee and the right, title and interest in such sum vest in the transferee. *New.*

Surrender
of licences

19.—(1) Upon being satisfied that a licensee's annual fee and his rehabilitation security are not in arrears and that his rehabilitation work has been done in accordance with this Act, the regulations, the conditions of his licence and the requirements of his site plan, the Minister may accept the surrender of his licence.

Disposition
of surplus
rehabilitation
moneys

(2) Where any sum remains in the former licensee's rehabilitation security account when the Minister accepts the surrender of his licence, the sum so remaining shall be paid by the Treasurer to the former licensee. *New.*

Death of
licensee

20. One year after a sole licensee dies, his licence expires unless within that period his personal representative applies to the Minister to allow him to operate the pit or quarry for such period as in the opinion of the Minister, having regard to the circumstances of the particular case, is sufficient to allow the personal representative to dispose of the pit or quarry and, if the pit or quarry is not disposed of within that period, or within such further period as the Minister may allow, the Minister shall revoke the licence. *New.*

Refusal to
issue and
refusal to
transfer of
licences

21.—(1) The Minister may in his discretion refuse to issue or refuse to consent to the transfer of a licence.

Revocation
of licences

(2) The Minister may revoke a licence for any contravention of this Act, the regulations, the conditions of the licence or the requirements of the site plan. 1971, c. 96, s. 7 (2), *amended.*

Notice to
licensee

(3) Where the Minister has,

(a) refused to issue a licence and the application has not been referred to the Board for a hearing under section 12;

(b) refused to consent to the transfer of a licence;

(c) revoked a licence;

(d) required a site plan to be amended; or

- (e) after the issue of a licence, added a condition to a licence or rescinded or varied a condition of a licence,

he shall serve forthwith notice thereof including the reasons therefor upon the applicant or licensee, and upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located.

(4) Any action of the Minister under subsection 3 is effective as soon as the notice mentioned in that subsection is served upon the applicant or licensee and, notwithstanding that the applicant or licensee requires a hearing by the Board, remains effective until the Minister takes action after considering the report of the Board.

Time of taking effect

(5) The notice under subsection 3 shall inform the applicant or licensee that he is entitled to a hearing by the Board if he serves, within thirty days after the notice under subsection 3 is served upon him, the Minister with notice that he requires a hearing.

Notice requiring a hearing

(6) Where the applicant or licensee serves the Minister with notice under subsection 5, the Minister shall refer the matter to the Board for a hearing. 1971, c. 96, s. 8, *amended*.

Hearing

22.—(1) Where a matter is referred to the Board under section 12 or 21, the Board shall hold a hearing and the applicant or licensee, the Minister and such other persons as the Board specifies shall be parties to the proceeding.

Hearing by Board

(2) A hearing by the Board shall be conducted in accordance with the rules, practices and procedures as determined by the Board under *The Ontario Municipal Board Act*, except that section 94 of that Act does not apply.

Procedure

R.S.O. 1970, c. 323

(3) The Board shall, at the conclusion of a hearing under this section, make a report to the Minister which shall set out its findings and its recommendations as to the issue to which the hearing relates and shall send a copy of its report to each party to the proceedings.

Report of Board

(4) After considering the report of the Board, the Minister may take such action as he considers appropriate and shall serve notice of his decision and the reasons therefor upon the other parties to the proceedings and upon the municipalities served under subsection 1 of section 12 or subsection 3 of section 21, as the case may be.

Decision of Minister

(5) The decision of the Minister is final. 1971, c. 96, s. 9, *amended*.

Decision final

23.—(1) The Minister may suspend a licence for any period of time, not exceeding three months, for any contravention of this

Suspension of licences

Act, the regulations, the conditions of the licence or the requirements of the site plan, effective as soon as the notice mentioned in subsection 2 is served upon the licensee. 1971, c. 96, s. 8 (4), *amended*.

Notice of
suspension

(2) Where the Minister has suspended a licence, he shall serve notice thereof, including the reasons therefor, upon the licensee and upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located.

Further
particulars
of notice

(3) The notice mentioned in subsection 2 shall, in addition to the particulars mentioned therein, notify the licensee of the period of the suspension, of the action he must take or desist from taking before the suspension will be removed, that the suspension will be removed as soon as he has complied with the notice to the satisfaction of the Minister, and that if he does not comply with the notice within the period of the suspension, the Minister may revoke the licence.

Revocation

(4) Where a licensee whose licence has been suspended has not taken the required remedial action within the period of the suspension, the Minister may exercise his power under subsection 2 of section 21 and revoke the licence, in which case subsections 3 to 6 of that section apply. *New*.

PART III

WAYSIDE PIT AND QUARRY PERMITS

Application
for permit

24.—(1) Any public authority that has a project that requires aggregate or any person who has a contract with a public authority for such a project may apply to the Minister in the prescribed form for a wayside pit or quarry permit. 1971, c. 96, s. 12 (1) *part, amended*.

Idem

(2) Every application for a wayside pit or quarry permit to excavate aggregate shall be accompanied by five copies of the site plan referred to in section 25 and the prescribed application fee.

Additional
information

(3) The Minister may require an applicant for a wayside pit or quarry permit to furnish him with additional information in such form and manner as he considers necessary and, until the information is furnished to his satisfaction, he may refuse to consider the application further.

Copies to
municipalities

(4) When the Minister is satisfied that an application for a wayside pit or quarry permit and the documents accompanying it

comply with this Act and the regulations, he shall serve a copy of it and the documents accompanying it upon the clerk of the regional municipality or county; as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New.*

25. The site plan accompanying an application for a wayside pit or quarry permit shall be prepared by the applicant or by a person on his behalf and shall be in the prescribed form and shall show, Site plans for wayside pits and quarries

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the public authority that is a party to the contract and the number of the project;
- (d) the location of the project;
- (e) the name and address of the owner of the site;
- (f) the hectarage of the site and the area to be excavated;
- (g) the existing and estimated final elevations of the site;
- (h) the use of the land and the location and use of the buildings and other structures within 150 metres of the site;
- (i) the location, dimensions and use of the buildings and other structures existing or proposed to be erected on the site;
- (j) every entrance to and exit from the site;
- (k) any significant natural features;
- (l) proposed drainage facilities on the site;
- (m) the sequence or direction of operation; and
- (n) the rehabilitation plans,

and may show such other information as the applicant considers advisable. *New.*

26. The Minister in considering an application for a wayside pit or quarry permit shall have regard to, Criteria

- (a) any information provided by the municipalities in which the site is located;
- (b) the estimated cost of transporting the aggregate to the project as compared with that of any alternative source of supply;
- (c) proper management of the aggregate resources of the area;
- (d) any previous permits for the site;
- (e) the rehabilitation of the site;
- (f) any proposed aesthetic improvements to the landscape; and
- (g) such other matters as he considers appropriate. 1971, c. 96, s. 12 (2), *amended*.

Issue
of
permits

27.—(1) The Minister may in his discretion issue a wayside pit or quarry permit subject to such conditions as he considers necessary and whether or not its location complies with any relevant restricted area by-law. 1971, c. 96, s. 12 (3), *amended*.

Idem

(2) Where the location of a wayside pit or quarry for which a wayside pit and quarry permit has been issued contravenes any relevant restricted area by-law, the permit prevails and the by-law does not apply to the wayside pit or quarry. *New*.

Copies to
municipalities

28. Where the Minister has issued a wayside pit or quarry permit, he shall serve a copy of it upon the clerk of the regional municipality or county, as the case may be, and upon the clerk of the local municipality in which the site is located for their information. *New*.

Duties of
permittees

29. Every wayside pit or quarry permittee shall operate his wayside pit or quarry in accordance with this Act, the regulations, the conditions of his permit and the requirements of his site plan. 1971, c. 96, ss. 3, 4 (4), *part, amended*.

Variation
of
conditions

30. The Minister may at any time add a condition to a wayside pit or quarry permit or rescind or vary any condition of such a permit. *New*.

Expiration
of
permits

31. A wayside pit or quarry permit expires on the completion of the project in respect of which it was issued or eighteen months after its date of issue, whichever occurs first. 1971, c. 96, s. 12 (4), *amended*.

32. The Minister may, at any time, suspend or revoke a wayside pit or quarry permit for any contravention of this Act, the regulations, the conditions of the permit or the requirements of the site plan. 1971, c. 96, s. 12 (5), *amended*. Suspension and revocation

PART IV

ABANDONED PITS AND QUARRIES

33.—(1) Where there is an unlicensed pit or quarry, the Minister may, Abandoned pits and quarries

- (a) after receiving the consent of the person assessed for the land on which the pit or quarry is located; and
- (b) after consultation with the regional municipality or county, as the case may be, and the local municipality in which the pit or quarry is located,

declare the pit or quarry to be abandoned for the purposes of subsection 2.

(2) The Minister may disburse any part of the fund mentioned in subsection 4 of section 14 for, Disbursal of fund

- (a) pre-program surveys or studies respecting the rehabilitation of abandoned pits and quarries; or
- (b) the rehabilitation of abandoned pits and quarries. *New.*

PART V

CROWN AGGREGATE PERMITS

34.—(1) Any person may apply to the Minister in the prescribed form for a Crown aggregate permit to excavate Crown aggregate. Applications for Crown aggregate permits

(2) Any person who holds a Crown aggregate permit may, during the first two months of the four-month period immediately preceding the expiry of his permit, apply to the Minister for another Crown aggregate permit for the same site to come into effect upon the expiry of the permit that he holds. Idem

(3) Every application for a Crown aggregate permit shall be accompanied by, Idem

- (a) two copies of the site plan referred to in section 35; and

(b) the prescribed application fee. *New.*

Site plans

35.—(1) The site plan accompanying an application for a Crown aggregate permit shall be in the prescribed form and shall show,

- (a) a key map showing the location of the site;
- (b) a general description of the site, including lot and concession lines, if any;
- (c) the shape, dimensions and hectarage of the site;
- (d) the existing and estimated final elevations of the site;
- (e) the use of land and the location and use of the buildings and other structures within 150 metres of the site; and
- (f) the rehabilitation plans,

and may show such other information as the applicant considers advisable.

Signature

(2) Every site plan for a Crown aggregate permit shall be signed by the applicant.

Additional information

(3) The Minister may require an applicant for a Crown aggregate permit to furnish him with additional information in such form and manner as he considers necessary and, until the information is furnished to his satisfaction, he may refuse to consider the application further. *New.*

Issue of Crown aggregate permits

36.—(1) Subject to section 37, the Minister may in his discretion issue a Crown aggregate permit for a fixed period of not more than five years subject to such conditions as he considers necessary.

Changes in conditions

(2) The Minister may at any time add a condition to a Crown aggregate permit or rescind or vary any condition of such a permit. *New.*

Public authority

37. Where in the opinion of the Minister it is in the public interest, he may authorize a public authority which has a project that requires Crown aggregate or any person who has a contract with a public authority for such a project to remove Crown aggregate from a site that is subject to a Crown aggregate permit. *New.*

Personal use

38.—(1) Where an individual whose principal residence is in Ontario applies for a Crown aggregate permit and states in his

application that he requires the aggregate for his personal use and not for sale, the Minister may issue the Crown aggregate permit without the necessity of the applicant complying with subsection 3 of section 34 and section 40.

(2) Where a Crown aggregate permit is issued to excavate Crown aggregate for personal use and not for sale, section 42 does not apply. *New.*

No transfer

39. Every Crown aggregate pit or quarry permittee shall operate his Crown aggregate pit or quarry in accordance with this Act, the regulations, the conditions of his permit and the requirements of his site plan. *New.*

Duties of permittees

40. Every Crown aggregate pit or quarry permittee shall pay to the Treasurer the prescribed permit fee. *New.*

Permit fees

41.—(1) The Minister may suspend or revoke a Crown aggregate permit for any contravention of this Act, the regulations, the conditions of the permit or the requirements of the site plan.

Suspension and revocation

(2) The Minister may revoke a Crown aggregate permit where in his opinion a substantial amount of Crown aggregate has not been removed from the site during any year of the term of the permit.

Idem

(3) The Minister may suspend or revoke a Crown aggregate permit where in his opinion the operation of the Crown aggregate pit or quarry is contrary to the public interest. *New.*

Idem

42. Upon application in the prescribed form accompanied by the prescribed transfer fee, the Minister may consent to the transfer of a Crown aggregate permit. *New.*

Transfer of permits

43. The Minister may in his discretion refuse to issue a Crown aggregate permit, refuse to issue another Crown aggregate permit under subsection 2 of section 34 or refuse to consent to the transfer of a Crown aggregate permit. *New.*

Refusal to issue or transfer

44.—(1) Where the Minister has,

Notice to applicant or permittee

suspended a Crown aggregate permit;

(b) revoked a Crown aggregate permit; or

(c) refused to issue another Crown aggregate permit upon an application under subsection 2 of section 34,

he shall serve forthwith notice thereof including the reasons therefor upon the applicant or permittee.

Time of
taking
effect

(2) Any action of the Minister under subsection 1 is effective as soon as the notice mentioned in that subsection is served upon the applicant or permittee.

Notice
requiring
a hearing

(3) The notice under subsection 1 shall inform the recipient that he is entitled to a hearing by the Commissioner if he serves, within fifteen days after the notice under subsection 1 is served upon him, the Minister with notice that he requires a hearing.

Hearing

(4) Where the recipient serves the Minister with notice under subsection 3 that he requires a hearing, the Minister shall refer the matter to the Commissioner for a hearing.

Idem

(5) Where a matter is referred to the Commissioner, the Commissioner shall hold a hearing to decide whether the Crown aggregate permit should remain suspended or revoked or be issued, as the case may be, and the Commissioner may, after the hearing, so decide.

Idem

(6) Where a matter is referred to the Commissioner under this section, he shall specify the parties to the proceedings.

Notice
of
decision

(7) The Commissioner shall serve notice upon the parties to the proceedings of his decision and the reasons therefor.

Appeal

(8) An appeal lies to the Supreme Court from a decision of the Commissioner under this section if a notice of appeal is served by the party appealing upon the other parties to the proceedings within fifteen days after the receipt by him of the notice of the decision. *New.*

Royalties

45.—(1) The Minister shall determine the royalty per tonne that each Crown aggregate permittee must pay under subsection 2, but in no case shall the royalty be less than the prescribed minimum royalty, and, in determining the royalty, the Minister shall have regard to the location, quantity, type and accessibility of the Crown aggregate and its intended use.

Royalties
to be paid

(2) Every Crown aggregate permittee shall pay a royalty to the Treasurer on or before the tenth day of the month immediately following the month in which the Crown aggregate is removed from the site at the rate per tonne determined under subsection 1 multiplied by the number of tonnes removed.

Security

(3) The Minister may require a Crown aggregate permittee to give security of the prescribed kind and in an amount or amounts determined by the Minister for the payment of any sum that is due or that may become due under subsection 2.

Recovery
of royalties
in default

(4) Where a person defaults in the payment of a royalty under subsection 2, the amount thereof may be recovered by the Crown

from any security given under subsection 3 or as a debt due in any court of competent jurisdiction. *New.*

PART VI

REHABILITATION

46.—(1) Except as provided in subsection 2, this Part applies to every licensee and permittee. Application of Part

(2) Except as provided in subsection 2 of section 47, this Part does not apply to the Crown and its agents. *New.* Exception

47.—(1) Every licensee and every permittee shall rehabilitate his site in accordance with this Act, the regulations, the conditions of his licence or permit and the requirements of his site plan to the satisfaction of the Minister. Duty to rehabilitate site

(2) Where the Crown or its agent excavates Crown aggregate, the Crown or its agent, as the case may be, shall rehabilitate the Crown aggregate pit or quarry to the satisfaction of the Minister. *New.* Crown

48.—(1) Every licensee shall pay to the Treasurer on or before the 15th day of March in each year a sum calculated by multiplying the number of tonnes excavated from his site in the previous year by the prescribed rate per tonne of aggregate as security for the rehabilitation of the site. Rehabilitation security payments by licensees

(2) The payments specified in subsection 1 cease when the total to the credit of the licensee in his account reaches the prescribed maximum for each hectare of his site that in the opinion of the Minister requires rehabilitation. 1971, c. 96, s. 11 (1), *amended.* Maximum

49. Every person who applies for a permit for a wayside pit or quarry shall before the permit is issued pay to the Treasurer a sum calculated by multiplying the maximum number of tonnes that the permit authorizes by the prescribed rate per tonne of aggregate as security for the rehabilitation of the site. *New.* Rehabilitation security payments by wayside pit permittees

50.—(1) Every Crown aggregate permittee shall pay to the Treasurer on or before the tenth day of the month immediately following the month in which the Crown aggregate was removed from the site a sum calculated by multiplying the number of tonnes removed from his site by the prescribed rate per tonne of Crown aggregate as security for the rehabilitation of the site. Rehabilitation security payments by Crown aggregate permittees

(2) The payments specified in subsection 1 cease when the total to the credit of the Crown aggregate permittee in his account Maximum

reaches the prescribed maximum for each hectare of his site that in the opinion of the Minister requires rehabilitation. *New.*

Rehabilitation
security
accounts

51.—(1) Sums paid by a licensee, a wayside pit or quarry permittee or a Crown aggregate permittee under section 48, 49 or 50 shall be held in an account in his name and shall be paid out in accordance with this Part.

Interest
payable

(2) Sums paid by a licensee or Crown aggregate permittee under section 48 or 50 shall earn interest at the prescribed rate.

Interest
deemed
security

(3) Interest earned under subsection 2 shall be deemed to form part of the rehabilitation security. *New.*

Partial
refunds

52.—(1) Where a licensee or a Crown aggregate permittee submits proof to the satisfaction of the Minister that he has performed progressive rehabilitation on his site in accordance with this Act, the regulations, the conditions of his licence or Crown aggregate permit and the requirements of his site plan, he is entitled to a refund not more than twice a year out of his rehabilitation security account in accordance with the regulations.

Amount

(2) The Minister shall determine the amount of the refund mentioned in subsection 1, but in no case shall the amount of the refund reduce the amount remaining in the rehabilitation security account of the licensee or Crown aggregate permittee to less than the prescribed minimum per hectare requiring rehabilitation. *New.*

Refunds
when
rehabilitation
work fully
performed

53. Where a licensee or permittee has submitted proof to the satisfaction of the Minister that he has performed his final rehabilitation work in accordance with this Act, the regulations, the conditions of his licence or permit and the requirements of his site plan, the Treasurer shall refund to him the total sum to his credit in his rehabilitation security account. *New.*

When
rehabilitation
work not
performed

54.—(1) Where a licence or permit is revoked or a permit expires and the rehabilitation work has not been performed in accordance with this Act, the regulations, the conditions of the licence or permit, and the requirements of the site plan to the satisfaction of the Minister, the Minister may enter upon the site and perform such rehabilitation work as he considers necessary. *New.*

Recovery
of cost

(2) The cost of rehabilitation work performed by the Minister under subsection 1 is a debt due to the Crown by the former licensee or permittee and shall be paid by the Treasurer out of the former licensee's or permittee's rehabilitation security account into the Consolidated Revenue Fund. 1971, c. 96, s. 11, *amended.*

(3) Where any sum remains to the credit of the former licensee or permittee in his rehabilitation security account after the cost of rehabilitation work performed by the Minister under subsection 1 has been paid out under subsection 2, the sum so remaining shall be paid by the Treasurer to the former licensee or permittee. Disposition of surplus

(4) Where the sum to the credit of the former licensee or permittee in his rehabilitation security account is insufficient to defray the cost of rehabilitation work performed by the Minister under subsection 1, the amount of the deficiency is a debt due to the Crown by the former licensee or permittee and is recoverable by the Crown in any court of competent jurisdiction. *New.* Recovery of deficiency

PART VII

OFFENCES AND PENALTIES

55.—(1) Every person who operates a pit or quarry without a licence is guilty of an offence. 1971, c. 96, s. 4 (1), *amended.* No operation of pit without licence

(2) Every person who operates a wayside pit or quarry or Crown aggregate pit or quarry without a permit is guilty of an offence. 1971, c. 96, s. 12 (1), *amended.* No operation of wayside pit or Crown aggregate pit without permit

(3) Every licensee who contravenes any condition of his licence or any requirement of his site plan is guilty of an offence. 1971, c. 96, s. 18 (1), *part, amended.* Contravention of licence or site plan

(4) Every permittee who contravenes any condition of his permit or any requirement of his site plan is guilty of an offence. 1971, c. 96, s. 18 (1), *part, amended.* Contravention of permit or site plan

(5) Every person who contravenes any provision of this Act or the regulations is guilty of an offence. 1971, c. 96, s. 18 (1), *part, amended.* Contravention of Act or regulations

(6) Every person who hinders or obstructs an inspector in the performance of his duties or furnishes him with false information or refuses to furnish him with information is guilty of an offence. 1971, c. 96, s. 13 (2), *amended.* Obstruction of inspectors

56.—(1) Every person who commits an offence under subsection 1 or 2 of section 55 is liable on summary conviction to a fine of not less than \$1,000 and not more than \$5,000 for each day on which the offence occurs or continues. Penalty

(2) Every person who commits an offence under subsection 3, 4, 5 or 6 of section 55 is liable on summary conviction to a fine of not less than \$200 and not more than \$5,000 for each day on which the offence occurs or continues. 1971, c. 96, s. 18 (1), *amended.* Idem

Consent

57. No prosecution for an offence under this Act shall be instituted without the consent of the Minister. 1971, c. 96, s. 18 (2), *amended*.

PART VIII

MISCELLANEOUS

Restraining orders

58. Where it appears to the Minister that any person does not comply or intend to comply with any provision of this Act or the regulations, notwithstanding the imposition of any penalty in respect of such noncompliance, the Minister may apply to the Supreme Court for an order directing such person to comply with such provision, and upon the application the court may make such order as the court considers proper. 1971, c. 96, s. 15, *amended*.

Service of notices

59.—(1) Any notice required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is to be made at the last address for service appearing on the records of the Ministry.

Idem

(2) Where service is made by registered mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that he did not, acting in good faith, and for cause beyond his control, receive the notice until a later date. 1971, c. 96, s. 16, *amended*.

Conflicts

60.—(1) The provisions of this Act and the regulations are in addition to and not in substitution for the provisions of Part IX of *The Mining Act* or any provisions substituted therefor at any time.

R.S.O. 1970,
c. 274

Idem

(2) In the event of any conflict between any provision of this Act or the regulations and any provision of Part IX of *The Mining Act* or any provision substituted therefor at any time, the provision of this Act prevails. 1971, c. 96, s. 17, *amended*.

Conflicts

61. In the event that a provision of this Act or the regulations and a provision of any other Act, regulation or municipal by-law treat the same subject-matter in different ways, the provision of this Act or the regulation, as the case may be, prevails and the provision of the other Act, regulation or by-law is inoperative for the purposes of this Act. 1971, c. 96, s. 17 (2), *amended*.

Regulations

62. The Lieutenant Governor in Council may make regulations,

(a) respecting the management of the aggregate and Crown aggregate resources of Ontario;

- (b) prescribing material as aggregate;
- (c) prescribing material that is the property of the Crown as Crown aggregate;
- (d) prescribing duties of inspectors;
- (e) prescribing or providing for the calculation of fees and providing for the payment thereof;
- (f) prescribing the percentage of the total of the annual licence fees that shall be disbursed to municipalities, prescribing the amounts and manner of such disbursements and prescribing the municipalities to which such disbursements shall be made;
- (g) prescribing the percentage of the total of the annual licence fees that shall be set apart as a fund and disbursed for the purposes mentioned in subsection 2 of section 33;
- (h) respecting the control, management and operation of pits and quarries, wayside pits and quarries, and Crown aggregate pits and quarries;
- (i) prescribing the minimum royalty for Crown aggregate and providing for the payment thereof;
- (j) prescribing kinds of security for the purposes of subsection 3 of section 45;
- (k) governing the rehabilitation of pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries;
- (l) respecting the form, terms and conditions of rehabilitation security, prescribing a rate per tonne of aggregate or Crown aggregate for the purpose of calculating rehabilitation security, prescribing maximum and minimum amounts per hectare of rehabilitation security for pits and quarries, wayside pits and quarries and Crown aggregate pits and quarries, prescribing the rate of interest payable thereon and providing for refunds from rehabilitation security accounts;
- (m) requiring and providing for the records and information that must be kept and returns that must be made by licensees and permittees;
- (n) prescribing forms for the purposes of this Act and providing for their use;

(o) designating parts of Ontario in which this Act and the regulations apply; and

(p) respecting any matter considered necessary or advisable to carry out the intent and purpose of this Act. 1971, c. 96, s. 19 (1), *amended*.

Relief
from
compliance

63.—(1) Where in the opinion of the Minister it is not contrary to the public interest, he may in writing relieve any licensee or permittee from compliance in whole or in part with any provision of the regulations, subject to any conditions as he considers necessary. 1971, c. 96, s. 19 (2), *amended*.

Idem

(2) The Minister may at any time rescind or vary any relief granted under subsection 1. *New*.

Pits and
quarries
licensed
under
1971, c. 96

64.—(1) Notwithstanding section 69, *The Pits and Quarries Control Act, 1971* and the regulations thereunder continue to apply to every pit or quarry for which an operator is licensed under that Act for six months after this Act comes into force except where the licence expires under subsection 2.

Application
for a
licence under
this Act

(2) During the first three months of the six-month period mentioned in subsection 1, an application for a licence under this Act accompanied by the prescribed fee may be made by a licensee under *The Pits and Quarries Control Act, 1971* in respect of his pit or quarry and, if an application is not so made, the licence under *The Pits and Quarries Control Act, 1971* expires at the end of such three-month period.

Same site
for which
operator is
licensed

(3) The site that is the subject of an application under subsection 2 must be the same site for which the licensee is licensed under *The Pits and Quarries Control Act, 1971*.

Licence
to be
issued

(4) Within the six-month period mentioned in subsection 1 and provided the applicant has paid fees and deposited rehabilitation security as required under *The Pits and Quarries Control Act, 1971*, the Minister shall issue a licence under this Act in respect of every application under subsection 2 even if the requirements of sections 8 and 9 have not been met and whether or not any relevant restricted area by-law is complied with, and as soon as a licence is issued under this Act for a pit or quarry to which this section applies, the licence under *The Pits and Quarries Control Act, 1971* expires and that Act and the regulations thereunder cease to apply, but the site plan under that Act continues in effect until superseded by a site plan under this Act.

When new
site plan
requirements
to be met

(5) The copies of the site plan referred to in section 8 and the report referred to in section 9 must be served upon the Minister within six months after the licensee has been served with a

demand therefor by the Minister or within three years after this Act comes into force, whichever occurs first.

(6) Clauses *a*, *b* and *c* of subsection 2 of section 7 and subsections 2 to 8 of section 12 do not apply to applications made under subsection 2 of this section.

s. 7 (2) (*a-c*),
s. 12 (2-8)
do not apply

(7) Where a licence is issued under this section, all security and interest on deposit or security payable at a future time, as the case may be, under *The Pits and Quarries Control Act, 1971* shall be deemed to be rehabilitation security on deposit or payable as provided under this Act.

Rehabilitation
security
1971, c. 96

(8) Where a licence is issued under this section, any rehabilitation that has been carried out in respect of a pit or quarry for which an operator is licensed under *The Pits and Quarries Control Act, 1971* and for which the operator has not received credit under that Act before this Act comes into force shall be deemed to be rehabilitation done for the purpose of this Act.

Credit for
rehabilitation
under
1971, c. 96

(9) Notwithstanding section 69, every permit issued under *The Pits and Quarries Control Act, 1971* that is subsisting when this Act comes into force continues in force as though this Act had not been passed until the expiration of its term. *New.*

Subsisting
permit under
1971, c. 96
continues
in force

65.—(1) Where a part of Ontario is designated for the purpose of this Act under subsection 2 of section 5, all the provisions of this Act and the regulations apply to every established pit and quarry in such part.

Act and
regulations
apply to pits
and quarries
in newly
designated
part of
Ontario

(2) Notwithstanding subsection 1, where the requirements of section 7, except clause *c* of subsection 2, are complied with during the six-month period next following the date of the designation mentioned in subsection 1, a licence for an established pit or quarry must be issued or refused during the twelve-month period next following the designation.

Licence must
be issued or
refused
during
twelve-month
period

(3) Notwithstanding subsection 1 of section 55, a person who applies for a licence during the six-month period next following the date of the designation mentioned in subsection 1 may operate his established pit or quarry without a licence until the licence is either issued or refused or the twelve-month period next following the date of the designation expires, whichever occurs first.

Right to
operate
for limited
period
without
licence

(4) Notwithstanding subsection 1, subsections 2 to 8 of section 12 do not apply where an application for a licence for an established pit or quarry is made during the two-year period next following the date of the designation mentioned in subsection 1.

Non-
application
of s. 12 (2-8)

Restricted
area by-law

(5) Notwithstanding subsection 3 of section 13, where an application for a licence for an established pit or quarry is made during the two-year period next following the date of the designation mentioned in subsection 1, the Minister may issue a licence for an established pit or quarry even if its location contravenes any relevant restricted area by-law.

Person deemed
licensee
from date of
designation

(6) For the purposes of this Act and the regulations, where a person has been issued a licence for an established pit or quarry he shall be deemed to be a licensee from the date of the designation mentioned in subsection 1. *New.*

Application
under
1971, c. 96
deemed
application
under this
Act

66.—(1) Where an application for a licence to operate a pit or quarry has been made under *The Pits and Quarries Control Act, 1971* but no licence has been issued or refused by the Minister under that Act before this Act comes into force, the application shall be deemed to be an application made under this Act if the applicant has, before this Act comes into force, complied with all the requirements of that Act respecting the application, in which case the applicant shall comply with the requirements of section 7 of this Act within six months after this Act comes into force.

Minister
may refuse
to consider
application

(2) Where in the opinion of the Minister the applicant fails to comply with the requirements of subsection 1, the Minister may refuse to consider the application further.

Hearing
before the
Board

(3) Where an applicant complies with the requirements of subsection 1, a hearing pending before the Board or in respect of which the Board has not reported to the Minister respecting a matter referred to it under *The Pits and Quarries Control Act, 1971* shall be deemed to be a hearing for the purposes of this Act. *New.*

R.S.O. 1970,
c. 274,
Part VII,
not
applicable

67. Part VII of *The Mining Act* or any provision substituted therefor at any time does not apply in any part of Ontario to which this Act applies. *New.*

Quarry
permits

68.—(1) Every quarry permit issued under Part VII of *The Mining Act* that is subsisting when this Act comes into force continues in force as though this Act had not been passed until the expiration of its term.

Idem

(2) For the purpose of subsection 2 of section 34, the holder of a quarry permit referred to in subsection 1 shall be deemed to be a Crown aggregate permittee. *New.*

1971, c. 96;
1978, c. 87,
s. 29, repealed

69. *The Pits and Quarries Control Act, 1971*, being chapter 96 and section 29 of *The Metric Conversion Statute Law Amendment Act, 1978*, being chapter 87, are repealed.

70. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

71. The short title of this Act is *The Aggregates Act, 1980*. Short title

An Act to revise
The Pits and Quarries Control Act, 1971

1st Reading

March 11th, 1980

2nd Reading

March 11th, 1980

3rd Reading

THE HON. J. A. C. AULD
Minister of Natural Resources

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Funeral Services Act, 1976

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to prohibit a funeral director from embalming a dead human body unless he has been specifically instructed to do so by the purchaser of funeral services or unless the body is to be transported out of Ontario.

BILL 128

1980

An Act to amend The Funeral Services Act, 1976

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 37 of *The Funeral Services Act, 1976*, being chapter 83, is ^{s. 37,} repealed and the following substituted therefor: ^{re-enacted}

37.—(1) No person who is a licensee under this Act shall ^{Embalming} embalm a human body unless,

(a) the embalming has been specifically directed by the purchaser of funeral services and provided for in an agreement for the purchase and sale of funeral services; or

(b) the human body is to be transported out of Ontario.

(2) No person shall transport a dead human body out of Ontario ^{Transportation} unless it has been embalmed and prepared for transport by a ^{of body out} funeral director. ^{of Ontario}

2. Subsection 1 of section 38 of the said Act is repealed and the ^{s. 38 (1),} following substituted therefor: ^{re-enacted}

(1) Every person who is in contravention of subsection 1 or 2 of ^{Penalties} section 5, subsection 1 of section 24 or subsection 1 of section 37 is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months.

3. This Act comes into force on the day it receives Royal Assent. ^{Commence-}ment

4. The short title of this Act is *The Funeral Services Amendment Act*, ^{Short title} 1980.

An Act to amend
The Funeral Services Act, 1976

1st Reading

June 13th, 1980

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Public Vehicles Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

EXPLANATORY NOTES

SECTION 1. The new definition being added is complementary to section 2 of the Bill.

SECTION 2. The existing section 2 of the Act has been re-enacted with a clarification in the meaning of section 2 (2). The new section 2a prohibits the leasing of a bus of a specified capacity for less than twenty-two days unless the bus is used within one municipality only. The new section 2b is a penalty section.

BILL 129 1980

An Act to amend The Public Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Public Vehicles Act*, being chapter 392 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 50, section 74 and 1977, chapter 32, section 1, is further amended by relettering clause *aa* as clause *ab* and by adding thereto the following clause:

(aa) "bus" means a bus as defined in *The Highway Traffic Act*. s. 1,
amended
R.S.O. 1970,
c. 202

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed and the following substituted therefor: s. 2,
re-enacted

2.—(1) Notwithstanding the provisions of any private Act, no person shall operate a public vehicle, Operating
licence
required

(a) except under an operating licence; or

(b) in contravention of the terms and conditions of the operating licence.

(2) No person shall arrange or offer to arrange the transportation of passengers by means of a public vehicle operated by another person unless that other person is the holder of an operating licence authorizing him to perform the transportation. Arranging
transportation

2a.—(1) No person, while transporting passengers therein for compensation or otherwise, shall operate a leased bus that has a designed seating capacity for more than thirty-five passengers unless, Transporting
in leased
bus

(a) the bus is leased to him for a term of not less than twenty-two days under a lease that is not terminable within the first twenty-two days of its term; or

- (b) the bus is operated solely within the corporate limits of one urban municipality.

Leased
bus

(2) No person shall lease out a bus that has a designed seating capacity for more than thirty-five passengers under a lease that has a term of less than twenty-two days or is terminable within the first twenty-two days of its term unless he obtains from the lessee a declaration in the prescribed form that the bus is to be operated solely within the corporate limits of one urban municipality.

Interpre-
tation

(3) The chartering of a bus and driver by the holder of an operating licence from another holder of an operating licence does not constitute the leasing of a bus for the purposes of this section.

Offence

2b.—(1) Every person who contravenes subsection 1 of section 2 or any provision of section 2a is guilty of an offence and on conviction is liable,

(a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

Subsequent
offence
within five-
year period

(2) Where a person who has previously been convicted of an offence mentioned in subsection 1 is convicted of the same or any other offence mentioned in subsection 1 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause b of subsection 1.

s. 3,
amended

3. Section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by adding thereto the following subsections:

Special
authority

(6) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set out in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,
continues
to apply

(7) The provisions of this Act, except sections 4 and 10, and the regulations and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation
by Minister

(8) The Minister may delegate to a member or members of the Board his powers under subsection 6.

SECTION 3. The Act now provides that the Minister may issue an operating licence in accordance with a certificate issued by the Board. The new provision extends the Minister's power so that he may, for a limited period in special circumstances, increase the authority given by the licence. The Minister may also delegate this new power.

SECTION 4.—Subsection 1. The amendment proposes a minor change to the effect that an application to the Board will be in a form provided by the Ministry rather than in accordance with a prescribed form.

Subsection 2. Section 4 (2) of the Act sets out matters that the Board may specify in a certificate issued by it. The new provision adds to the matters that may be dealt with.

Subsection 3. The provision added clarifies that an operating licence is dependent on a certificate issued by the Board.

SECTION 5.—Subsection 1. As in the previous section, the amendment proposes a minor change to the effect that an application for a transfer of an operating licence will be in a form provided by the Ministry rather than in accordance with a prescribed form.

Subsection 2. The amendment clarifies that an application for a transfer of an operating licence shall be heard under *The Ontario Highway Transport Board Act*.

SECTION 6. This is complementary to section 4 of the Bill.

4.—(1) Subsection 1 of section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “in the prescribed form” in the third line and inserting in lieu thereof “on the form provided therefor by the Ministry”. s. 4 (1),
amended

(2) Subsection 2 of the said section 4 is amended by striking out “or” at the end of clause *a*, by adding “and” at the end of clause *b* and by adding thereto the following clause: s. 4 (2),
amended

(c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

(3) The said section 4 is amended by adding thereto the following subsection: s. 4,
amended

(4) Where a certificate issued by the Board under this section is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address. Where
certificate
revoked or
amended

5.—(1) Subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “in the prescribed form” in the third line and inserting in lieu thereof “on the form provided therefor by the Ministry”. s. 5 (1),
amended

(2) Subsection 2 of the said section 5 is amended by inserting after “hearing” in the third line “as required by *The Ontario Highway Transport Board Act*”. s. 5 (2),
amended

6.—(1) Subsection 1 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by inserting after “licence” in the first line “for which a day for expiry has not been fixed”. s. 6 (1),
amended

(2) The said section 6 is amended by adding thereto the following subsection: s. 6,
amended

(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. Where
subss. 1 and 2
do not apply

s. 9a,
amended

- 7.** Section 9a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by adding thereto the following clause:

(ba) where the past conduct of the applicant or licensee, or, where the applicant or licensee is a corporation, of its officers or directors, affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

s. 9c (1),
amended

- 8.—(1)** Subsection 1 of section 9c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “in the prescribed form” in the third line and inserting in lieu thereof “on the form provided therefor by the Ministry”.

s. 9c (2),
re-enacted

- (2) Subsection 2 of the said section 9c is repealed and the following substituted therefor:

Idem

(2) No vehicle licence shall be issued for a public vehicle except to the holder of an operating licence who,

R.S.O. 1970,
c. 202

(a) is registered as the owner of the vehicle under *The Highway Traffic Act*; or

(b) has entered into an agreement for the lease of the vehicle in accordance with this Act and the regulations.

s. 9e,
amended

- 9.** Subsection 2 of section 9e of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “number” in the third line and inserting in lieu thereof “plate”.

s. 9f,
amended

- 10.** Section 9f of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “registered as owner of the vehicle under *The Highway Traffic Act*” in the third and fourth lines and inserting in lieu thereof “eligible to be issued a licence under subsection 2 of section 9c”.

s. 11 (2),
amended

- 11.** Subsection 2 of section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by inserting after “hearing” in the second line “as required by *The Ontario Highway Transport Board Act*”.

s. 13,
amended

- 12.** Section 13 of the said Act is amended by striking out “or operator” in the first line.

s. 14,
amended

- 13.** Section 14 of the said Act is amended by striking out “or operator” in the first line.

SECTION 7. Section 9a of the Act sets out the circumstances under which the Minister may suspend or cancel an operating licence. The new provision adds another ground for suspension or cancellation.

SECTION 8.—Subsection 1. This is another minor change whereby a form would be provided by the Ministry for an application for a vehicle licence.

Subsection 2. The provision now provides that a vehicle licence for a public vehicle shall be issued only to the person registered as owner of the vehicle. This is extended to include a person who is leasing the vehicle.

SECTION 9. This is a housekeeping change.

SECTION 10. This change is complementary to subsection 2 of section 8 of the Bill.

SECTION 11. The amendment clarifies that a hearing is to be held under the Act specified.

SECTIONS 12 AND 13. The amendments remove an ambiguity whereby it may be construed that an operator of a bus is not the driver.

SECTION 14. The new provision allows an officer to stop a bus in order to examine its contents and equipment. This is similar to the authority given in section 15b of *The Public Commercial Vehicles Act* to stop commercial vehicles and is an extension and clarification of the authority to examine now contained in the current section 22a of the Act. Provision also is made that where a leased bus is used to transport passengers, the lease or a copy of the lease must be carried in the bus.

SECTION 15. The general penalty provision is amended to provide that the minimum penalty is increased from \$50 to \$150 and that the maximum penalty is increased from \$200 to \$1,500. Furthermore, there is a penalty provided for making false affidavits, etcetera.

- 14.** Section 22a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed and the following substituted therefor: s. 22a,
re-enacted

22a.—(1) A member of the Ontario Provincial Police Force or an officer of the Ministry may, for the purpose of an examination in accordance with subsection 2, direct, by signals or otherwise, the driver of any bus that is being driven on a highway to stop, and the driver upon being so directed shall stop the vehicle. Stopping
vehicle for
examination

(2) A member of the Ontario Provincial Police Force or an officer of the Ministry may at any time examine any bus, its contents and equipment for the purpose of ascertaining whether this Act and the regulations are being complied with in the operation of the bus, and the driver or other person in control of the bus shall assist in the examination of the bus, its contents and equipment. Examination
of bus

(3) Where a leased bus is being operated on a highway for the purpose of transporting passengers, the lease, or a true copy thereof, shall be carried by the driver of the bus or placed in some readily accessible position in the bus and shall be surrendered for reasonable inspection upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry. Production
of lease

(4) An officer of the Ministry may at any time examine all books, records and documents of the holder of an operating licence relating to the business of operating public vehicles for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder. Examination
of records,
etc., of
holder of
operating
licence

- 15.** Section 23 of the said Act is repealed and the following substituted therefor: s. 23,
re-enacted

23.—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500. Offences

(2) Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this Act or by the regulations or by the Ministry is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both. Idem

s. 25 (a),
re-enacted

16.—(1) Clause *a* of section 25 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed and the following substituted therefor:

- (a) prescribing forms for the purposes of this Act and providing for their use;
- (b) governing the application for a licence or for a renewal or transfer of a licence and prescribing classes of licences.

s. 25 (l),
re-enacted

(2) Clause *l* of the said section 25 is repealed and the following substituted therefor:

- (l) defining chartered trips, special trips, scheduled services and school buses, and prescribing special terms and conditions with respect to such trips or buses and regulating such trips or services.

s. 25,
amended

(3) The said section 25, as amended by the Statutes of Ontario, 1971, chapter 50, section 74, is further amended by adding thereto the following clauses:

- (h) governing the material and information to be filed with tariffs of tolls filed under this Act;
- (n) providing for the payment of fees for copies of or access to any writing, paper or document filed in the Ministry under this Act or the regulations or any statement containing information from the records of the Ministry and prescribing the amount of such fees;
- (o) prescribing terms that shall be deemed to be incorporated into all leases referred to in sections 1*a* and 9*c*.

s. 26,
amended

17. Subsection 1 of section 26 of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 23, section 1, is amended by striking out "application or reference is made" in the seventh line and inserting in lieu thereof "hearing or review is commenced".

Commence-
ment

18. This Act comes into force on the day it receives Royal Assent.

Short title

19. The short title of this Act is *The Public Vehicles Amendment Act, 1980*.

SECTION 16. The power to make regulations is expanded.

SECTION 17. Section 26 of the Act provides that the Lieutenant Governor in Council may issue policy statements setting out matters to be considered by the Board. Currently, the Board is to take such matters into consideration in respect of an application or reference made after the policy statement. The amendment would change this so that the Board would take such matters into consideration where the hearing or review is started after the policy statement is made.

An Act to amend
The Public Vehicles Act

1st Reading

June 16th, 1980

2nd Reading

3rd Reading

THE HON. J. W. SNOW
Minister of Transportation
and Communications

(Government Bill)

BILL 129

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Public Vehicles Act

THE HON. J. W. SNOW
Minister of Transportation and Communications

An Act to amend The Public Vehicles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Public Vehicles Act*, being chapter 392 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1971, chapter 50, section 74 and 1977, chapter 32, section 1, is further amended by relettering clause *aa* as clause *ab* and by adding thereto the following clause:

(*aa*) "bus" means a bus as defined in *The Highway Traffic Act*. s. 1,
amended
R.S.O. 1970,
c. 202

2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed and the following substituted therefor: s. 2,
re-enacted

2.—(1) Notwithstanding the provisions of any private Act, no person shall operate a public vehicle, Operating
licence
required

(*a*) except under an operating licence; or

(*b*) in contravention of the terms and conditions of the operating licence.

(2) No person shall arrange or offer to arrange the transportation of passengers by means of a public vehicle operated by another person unless that other person is the holder of an operating licence authorizing him to perform the transportation. Arranging
transportation

2*a*.—(1) No person, while transporting passengers therein for compensation or otherwise, shall operate a leased bus that has a designed seating capacity for more than thirty-five passengers unless, Transporting
in leased
bus

(*a*) the bus is leased to him for a term of not less than twenty-two days under a lease that is not terminable within the first twenty-two days of its term; or

(b) the bus is operated solely within the corporate limits of one urban municipality.

Leased
bus

(2) No person shall lease out a bus that has a designed seating capacity for more than thirty-five passengers under a lease that has a term of less than twenty-two days or is terminable within the first twenty-two days of its term unless he obtains from the lessee a declaration in the prescribed form that the bus is to be operated solely within the corporate limits of one urban municipality.

Interpre-
tation

(3) The chartering of a bus and driver by the holder of an operating licence from another holder of an operating licence does not constitute the leasing of a bus for the purposes of this section.

Offence

2b.—(1) Every person who contravenes subsection 1 of section 2 or any provision of section 2a is guilty of an offence and on conviction is liable,

(a) for a first offence, to a fine of not less than \$250 and not more than \$5,000; and

(b) for each subsequent offence, to a fine of not less than \$500 and not more than \$5,000.

Subsequent
offence
within five-
year period

(2) Where a person who has previously been convicted of an offence mentioned in subsection 1 is convicted of the same or any other offence mentioned in subsection 1 within five years after the date of the previous conviction, the offence for which he is last convicted shall be deemed to be a subsequent offence for the purpose of clause b of subsection 1.

s. 3,
amended

3. Section 3 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by adding thereto the following subsections:

Special
authority

(6) Where the Minister is of the opinion that public necessity and convenience will be served thereby, he may grant to the holder of an operating licence a special authority that augments his operating licence to the extent set out in the special authority, subject to the terms and conditions therein, for a period not exceeding seven days.

Act, etc.,
continues
to apply

(7) The provisions of this Act, except sections 4 and 10, and the regulations and the terms and conditions of the licensee's operating licence shall continue to apply during the period of validity of the special authority to the extent that they are not inconsistent therewith.

Delegation
by Minister

(8) The Minister may delegate to a member or members of the Board his powers under subsection 6.

4.—(1) Subsection 1 of section 4 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “in the prescribed form” in the third line and inserting in lieu thereof “on the form provided therefor by the Ministry”. s. 4 (1),
amended

(2) Subsection 2 of the said section 4 is amended by striking out “or” at the end of clause *a*, by adding “and” at the end of clause *b* and by adding thereto the following clause: s. 4 (2),
amended

(c) prescribe that a licence expire at the end of a specified term, upon a specified day or upon the occurrence of a specified event.

(3) The said section 4 is amended by adding thereto the following subsection: s. 4,
amended

(4) Where a certificate issued by the Board under this section is revoked or amended, the operating licence issued as a result of that certificate shall be revoked or amended accordingly, and the revocation or amendment of the licence shall be effective on the fifth day after the day notice of the revocation or amendment is mailed by registered mail addressed to the licensee at his last known address. Where
certificate
revoked or
amended

5.—(1) Subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “in the prescribed form” in the third line and inserting in lieu thereof “on the form provided therefor by the Ministry”. s. 5 (1),
amended

(2) Subsection 2 of the said section 5 is amended by inserting after “hearing” in the third line “as required by *The Ontario Highway Transport Board Act*”. s. 5 (2),
amended

6.—(1) Subsection 1 of section 6 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by inserting after “licence” in the first line “for which a day for expiry has not been fixed”. s. 6 (1),
amended

(2) The said section 6 is amended by adding thereto the following subsection: s. 6,
amended

(3) Subsections 1 and 2 do not apply to an operating licence that by its terms expires at the end of a specified term, upon a specified day or upon the occurrence of a specified event. Where
subss. 1 and 2
do not apply

s. 9a,
amended

- 7.** Section 9a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by adding thereto the following clause:

(ba) where the past conduct of the applicant or licensee, or, where the applicant or licensee is a corporation, of its officers or directors, affords reasonable grounds for belief that the transportation service will not be operated in accordance with the law and with honesty and integrity.

s. 9c (1),
amended

- 8.—(1)** Subsection 1 of section 9c of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “in the prescribed form” in the third line and inserting in lieu thereof “on the form provided therefor by the Ministry”.

s. 9c (2),
re-enacted

- (2) Subsection 2 of the said section 9c is repealed and the following substituted therefor:

Idem

(2) No vehicle licence shall be issued for a public vehicle except to the holder of an operating licence who,

R.S.O. 1970,
c. 202

(a) is registered as the owner of the vehicle under *The Highway Traffic Act*; or

(b) has entered into an agreement for the lease of the vehicle in accordance with this Act and the regulations.

s. 9e,
amended

- 9.** Subsection 2 of section 9e of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by striking out “number” in the third line and inserting in lieu thereof “plate”.

s. 9f,
amended

- 10.** Section 9f of the said Act, as enacted by the Statutes of Ontario 1971, chapter 50, section 74, is amended by striking out “registered as owner of the vehicle under *The Highway Traffic Act*” in the third and fourth lines and inserting in lieu thereof “eligible to be issued a licence under subsection 2 of section 9c”.

s. 11 (2),
amended

- 11.** Subsection 2 of section 11 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is amended by inserting after “hearing” in the second line “as required by *The Ontario Highway Transport Board Act*”.

s. 13,
amended

- 12.** Section 13 of the said Act is amended by striking out “or operator” in the first line.

s. 14,
amended

- 13.** Section 14 of the said Act is amended by striking out “or operator” in the first line.

- 14.** Section 22a of the said Act, as enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed and the following substituted therefor:

22a.—(1) A member of the Ontario Provincial Police Force or an officer of the Ministry may, for the purpose of an examination in accordance with subsection 2, direct, by signals or otherwise, the driver of any bus that is being driven on a highway to stop, and the driver upon being so directed shall stop the vehicle.

Stopping
vehicle for
examination

(2) A member of the Ontario Provincial Police Force or an officer of the Ministry may at any time examine any bus, its contents and equipment for the purpose of ascertaining whether this Act and the regulations are being complied with in the operation of the bus, and the driver or other person in control of the bus shall assist in the examination of the bus, its contents and equipment.

Examination
of bus

(3) Where a leased bus is being operated on a highway for the purpose of transporting passengers, the lease, or a true copy thereof, shall be carried by the driver of the bus or placed in some readily accessible position in the bus and shall be surrendered for reasonable inspection upon the demand of a member of the Ontario Provincial Police Force or an officer of the Ministry.

Production
of lease

(4) An officer of the Ministry may at any time examine all books, records and documents of the holder of an operating licence relating to the business of operating public vehicles for the purpose of ensuring that the provisions of this Act and the regulations are being complied with and such officer may, for the purposes of such examination, upon producing his designation as an officer, enter at any reasonable time the business premises of the holder.

Examination
of records,
etc., of
holder of
operating
licence

- 15.** Section 23 of the said Act is repealed and the following substituted therefor:

23.—(1) Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction, where a penalty for the contravention is not otherwise provided for herein, is liable to a fine of not less than \$150 and not more than \$1,500.

Offences

(2) Every person who knowingly makes a false statement in an application, declaration, affidavit or paper writing required by this Act or by the regulations or by the Ministry is guilty of an offence and on conviction is liable to a fine of not less than \$50 and not more than \$200 or to imprisonment for a term of not more than thirty days, or to both.

Idem

s. 25 (a),
re-enacted

16.—(1) Clause *a* of section 25 of the said Act, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed and the following substituted therefor:

- (a) prescribing forms for the purposes of this Act and providing for their use;
- (b) governing the application for a licence or for a renewal or transfer of a licence and prescribing classes of licences.

s. 25 (l),
re-enacted

(2) Clause *l* of the said section 25 is repealed and the following substituted therefor:

- (l) defining chartered trips, special trips, scheduled services and school buses, and prescribing special terms and conditions with respect to such trips or buses and regulating such trips or services.

s. 25,
amended

(3) The said section 25, as amended by the Statutes of Ontario, 1971, chapter 50, section 74, is further amended by adding thereto the following clauses:

- (h) governing the material and information to be filed with tariffs of tolls filed under this Act;
-
- (n) providing for the payment of fees for copies of or access to any writing, paper or document filed in the Ministry under this Act or the regulations or any statement containing information from the records of the Ministry and prescribing the amount of such fees;
- (o) prescribing terms that shall be deemed to be incorporated into all leases referred to in sections 1a and 9c.

s. 26,
amended

17. Subsection 1 of section 26 of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 23, section 1, is amended by striking out “application or reference is made” in the seventh line and inserting in lieu thereof “hearing or review is commenced”.

Commence-
ment

18. This Act comes into force on the day it receives Royal Assent.

Short title

19. The short title of this Act is *The Public Vehicles Amendment Act, 1980*.

An Act to amend
The Public Vehicles Act

1st Reading

June 16th, 1980

2nd Reading

June 19th, 1980

3rd Reading

June 19th, 1980

THE HON. J. W. SNOW
Minister of Transportation
and Communications

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

**An Act to provide
Parking Facilities for Physically Handicapped Persons**

MR. KENNEDY

EXPLANATORY NOTE

The purpose of this Bill is to ensure that parking facilities are made available to physically handicapped persons.

The Bill provides that at least 1 per cent of all parking spaces in parking lots containing more than twenty-five parking spaces to which the public has access will be designated for the sole use of vehicles operated by physically handicapped persons and vehicles conveying physically handicapped persons.

Parking lots owned or operated by public authorities located within 200 metres of a public building must provide at least 2 per cent of all parking spaces as designated parking spaces.

Municipalities will be able to specify that a higher percentage of designated parking spaces be provided.

The bill will also allow physically handicapped persons to apply to the council of a municipality to pass by-laws exempting physically handicapped persons from the municipality's on-street parking by-laws. If the council refuses or neglects to pass the by-law, the applicant may appeal to the Ontario Municipal Board.

The Bill prescribes a procedure for obtaining permits for the use of designated parking spaces. The permits will be available from municipal clerks and will be valid throughout Ontario. The permits will also allow physically handicapped persons to take advantage of exemptions from on-street parking by-laws.

A minimum \$25 fine is prescribed for improper use of any designated parking space, whether the parking space has been provided voluntarily by the parking lot owner or pursuant to the mandatory provisions of the Act.

BILL 130

1980

An Act to provide Parking Facilities for Physically Handicapped Persons

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, *Interpre-*

tation

(a) "conveying" includes picking up and discharging;

(b) "designated parking space" means a parking space marked by a sign, as described in the Schedule, as a parking space for,

(i) a vehicle operated by a physically handicapped person, and

(ii) a vehicle conveying a physically handicapped person,

and includes a parking space designated pursuant to a by-law passed under paragraph 131a of subsection 1 of section 354 of *The Municipal Act*;

R.S.O. 1970,
c. 284

(c) "physically handicapped person" means a person who is permanently or temporarily,

(i) confined to a wheelchair,

(ii) required to use crutches, braces or other devices that seriously restrict the mobility of the person, or

(iii) for medical reasons, not referred to in subclause i or ii, seriously restricted in his or her mobility;

(d) "public authority" means,

- (i) the Crown and every board and agency thereof,
- (ii) conservation authorities,
- (iii) a municipality and every local board thereof,
- (iv) Ontario Hydro;

(e) "public building" means a building owned by or leased to a public authority and that is used by a public authority in carrying on its business or undertaking.

Administration
of Act

2. The Minister of Intergovernmental Affairs is responsible for the administration of this Act.

Application
to Crown

3. This Act binds the Crown.

Designated
parking spaces

4.—(1) Any owner of or operator of a parking lot or other parking facility may provide designated parking spaces.

Mandatory
designation

(2) Every owner and every operator of a parking lot or other parking facility to which the public has access, whether on payment of a fee or otherwise, and which contains more than twenty-five parking spaces shall provide at least one designated parking space for each one hundred parking spaces or part thereof in the lot or facility.

Parking lots
adjacent to
public
buildings

(3) Notwithstanding subsection 2, where a parking lot or other parking facility owned or operated by a public authority is located within two hundred metres of a public building, the public authority shall provide at least two designated parking spaces for each one hundred parking spaces or part thereof in the lot or facility.

Application
of municipal
by-laws
R.S.O. 1970,
c. 284

(4) Where, under paragraph 131a of subsection 1 of section 354 of *The Municipal Act*, a municipality has passed a by-law requiring more than the number of designated parking spaces required under subsection 1, the number of designated parking spaces required by the by-law shall be provided.

Signs

(5) Every designated parking space shall be conspicuously marked by a sign, as described in the Schedule.

Dimension

(6) A designated parking space required under subsection 2 or 3 or under a by-law passed under paragraph 131a of subsection 1 of section 354 of *The Municipal Act* shall have a minimum length of six metres and a minimum width of four metres.

By-laws

5.—(1) Where, upon the application of a physically handicapped person, a municipality refuses or neglects to pass a by-law

under paragraph 107*b* of subsection 1 of section 354 of *The Municipal Act* within ninety days of the receipt of the application by the clerk of the municipality, the applicant may appeal to the Ontario Municipal Board and the Board shall hear the appeal and dismiss the same or direct that the by-law be passed, with or without amendments, in accordance with its order.

R.S.O. 1970,
c. 284

(2) The Ontario Municipal Board, in considering an appeal under this section, shall consider as relevant factors,

Relevant
factors

- (a) the needs of the physically handicapped person;
- (b) the availability of off-street parking;
- (c) the safety of other users of the highways; and
- (d) such other matters as the Board considers relevant.

6. Every by-law passed under paragraphs 107*b* and 131*a* of subsection 1 of section 354 of *The Municipal Act* shall be deemed to apply to both vehicles operated by physically handicapped persons and to vehicles conveying physically handicapped persons.

Interpre-
tation of
by-laws

7.—(1) Upon the application in Form 1 of a physically handicapped person and upon compliance with subsection 2, the clerk of a municipality shall issue a permit in Form 2 to the physically handicapped person.

Permits

(2) An application under subsection 1 shall be accompanied by the certificate in Form 3 of a qualified medical practitioner certifying that the applicant is a physically handicapped person as defined in clause *c* of section 1.

Medical
certificate

(3) The information contained in Form 3 is confidential and, except for the purpose of a prosecution under this Act, no person shall publish, disclose or communicate the information contained in Form 3.

Confidential
information

(4) A permit issued to a person who is a permanently physically handicapped person is valid in perpetuity and a permit issued to a temporarily physically handicapped person is valid for three months from the date of issue.

Period of
validity

(5) A permit issued under this section is valid throughout Ontario for the purposes of this Act and every by-law passed under paragraphs 107*b* and 131*a* of subsection 1 of section 354 of *The Municipal Act*.

Province-
wide validity

Fee	(6) The council of a municipality may, by by-law, prescribe a fee not exceeding \$2 for the issue of a permit under this section.
Use of permit	(7) A permit issued under this section may be used by the physically handicapped person in any vehicle whether the person is operating the vehicle or being conveyed in the vehicle.
Display of permit R.S.O. 1970, c. 284	8. For the purpose of an exemption provided under a by-law passed under paragraph 107 <i>b</i> of subsection 1 of section 354 of <i>The Municipal Act</i> and for the purpose of using a designated parking space, a permit issued under section 7 shall be displayed on the dashboard of the vehicle or otherwise displayed in the windshield of the vehicle.
Prohibition	9.—(1) No person shall park a vehicle in a designated parking space unless a valid permit is displayed in accordance with section 8.
Idem	(2) No person, other than a physically handicapped person, shall acquire or use a permit issued under section 7.
Offences	10.—(1) Every person who contravenes subsection 3 of section 7 or section 9 is guilty of an offence and on conviction is liable to a fine of not less than \$25 and not more than \$200.
Idem	(2) Every owner and every operator of a parking lot who contravenes subsection 2 or 3 of section 4 or a regulation made under this Act is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$10,000.
Enforcement	(3) Sections 4 and 9 and the regulations made under this Act may be enforced by the council of a municipality in the same manner and with the same remedies as if they were by-laws passed by the council under <i>The Municipal Act</i> .
Owner liable	(4) For the purposes of subsection 1, the owner of the vehicle, whether or not he was the driver at the time the offence was committed, may be charged with and convicted of the offence unless at the time of the offence the vehicle was in the possession of some other person without the owner's consent.
Removal and storage of vehicle R.S.O. 1970, c. 202	(5) Subsection 13 of section 116 of <i>The Highway Traffic Act</i> applies with necessary modifications to a vehicle parked in contravention of subsection 1 of section 9.
Identifying markers	11. The Minister of Transportation and Communications may authorize the use of, and issue, identifying markers for vehicles owned by physically handicapped persons or used for conveying physically handicapped persons, and any such marker shall be deemed to be a permit issued under this Act.

12.—(1) For the purposes of designated parking spaces Regulations required under subsections 2 and 3 of section 4, the Lieutenant Governor in Council may, by regulation,

- (a) prescribe the location of designated parking spaces;
- (b) require the construction of ramps and related facilities to permit physically handicapped persons to move safely and freely from designated parking spaces to the pedestrian access points of parking lots and parking facilities.

(2) A regulation made under subsection 1 may be general or Idem particular in its application.

13. A sign prescribed pursuant to a by-law passed under paragraph 131a of subsection 1 of section 354 of *The Municipal Act* may continue to be used by the owner or operator of a parking lot or other parking facility until the 1st day of January, 1985, and every such sign shall be deemed to comply with this Act until that date. Transition R.S.O. 1970, c. 284

14.—(1) Clause a of paragraph 107b of subsection 1 of section 354 of *The Municipal Act*, as enacted by the Statutes of Ontario, 1978, chapter 101, section 4, is repealed and the following substituted therefor: R.S.O. 1970, c. 284, s. 354 (1), par. 107b (a), re-enacted

- (a) A by-law passed under this paragraph may regulate or prohibit the parking, standing or stopping of motor vehicles in respect of which a permit has been issued under *The Parking Facilities for the Handicapped Act*, 1980 and the provisions authorized by this clause may be different from and in conflict with the provisions of any other by-law of the municipality for prohibiting or regulating the parking, standing or stopping of motor vehicles on a highway or part thereof under the jurisdiction of the council. 1980, c. ...

(2) Paragraph 131a of subsection 1 of section 354 of the said Act, as enacted by the Statutes of Ontario, 1978, chapter 101, section 4, is amended by striking out "a by-law passed by the council under paragraph 107b and for prohibiting the use of such spaces by other vehicles" in the sixth, seventh and eighth lines and inserting in lieu thereof "*The Parking Facilities for the Handicapped Act*, 1980". s. 354 (1), par. 131a, amended

15.—(1) This Act, except subsections 2 and 3 of section 4 and subsection 2 of section 10, comes into force on the day it receives Royal Assent. Commencement

Idem (2) Subsections 2 and 3 of section 4 and subsection 2 of section 10 come into force on the 1st day of March, 1981.

Short title **16.** The short title of this Act is *The Parking Facilities for the Handicapped Act, 1980*.

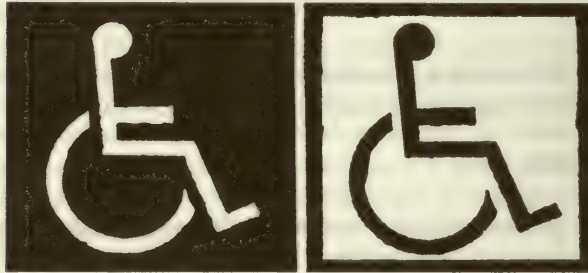
SCHEDULE

DESIGNATED PARKING SPACE SIGN

1. Description

The sign is composed of two elements—the wheelchair figure and either a square background or square border. The correct colour for the sign is a dark blue or black. This blue or black should be the background colour for a white wheelchair figure when used without a border, or as the colour for the border and wheelchair figure on a white background. It is recommended that the sign be at least forty centimetres square.

2. Illustration



Form 1

APPLICATION FOR PERMIT

Application to the clerk of The Corporation of the
City, Town, etc.

of
Name of Municipality

Name of Physically Handicapped Person

Address
Street and Number or Lot, Concession and Township

Post office Postal Code
City, Town, Village, etc. R.R. No.

Nature of Handicap Permanent Temporary (circle one)

I hereby apply for a permit under subsection 1 of section 7 of *The Parking Facilities for the Handicapped Act, 1980* for the physically handicapped person named above.

Date of application
Signature of Applicant

(Note, where the named applicant is unable to sign this application it may be signed by another person on his or her behalf.)

Form 2

PERMIT

Permit issued under *The Parking Facilities for the Handicapped Act, 1980*

Permit issued to:
(name of physically handicapped person)

Name of issuing municipality

Date of issue

Nature of handicap

(Enter *permanent* or *temporary* in this space)



This permit must be displayed on the dashboard or in the windshield of the vehicle when using a designated parking space.

Form 3

MEDICAL CERTIFICATE

Name of Qualified Medical Practitioner

Office Address

Name of Physically Handicapped Person

I have examined the above-named person and I am of the opinion that the person is a permanently/temporarily (circle appropriate word) physically handicapped person within the meaning of *The Parking Facilities for the Handicapped Act, 1980*, for the following reason(s):

(Briefly set out the nature of the physical handicap)

Date of Certificate

Signature of Qualified
Medical Practitioner

(Note: *The Parking Facilities for the Handicapped Act, 1980* defines a physically handicapped person as follows:

1. In this Act,

(c) "physically handicapped person" means a person who is permanently or temporarily,

- (i) confined to a wheelchair,
- (ii) required to use crutches, braces or other devices that seriously restrict the mobility of the person, or
- (iii) for medical reasons, not referred to in subclause i or ii, seriously restricted in his or her mobility.)

An Act to provide
Parking Facilities for Physically
Handicapped Persons

1st Reading

June 17th, 1980

2nd Reading

3rd Reading

MR. KENNEDY

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Judicature Act

MR. BREAGH

EXPLANATORY NOTE

The purpose of the Bill is to provide for full access by news reporters to court records.

Subsection 4 of section 126 of the Act as it now reads is as follows:

- (4) *A person affected by any record in any court, whether it concerns the Queen or other person, is entitled, upon payment of the proper fee, to search and examine it and to have an exemplification or a certified copy thereof made and delivered to him by the proper officer.*

BILL 131

1980

An Act to amend The Judicature Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 4 of section 126 of *The Judicature Act*, being chapter 228 of the Revised Statutes of Ontario, 1970, is repealed and the following substituted therefor: s. 126 (4),
re-enacted

(4) A person affected by any record in any court and a person requesting access to any record in the course of the person's employment as a news reporter, whether or not the record concerns the Queen or other person, is entitled, upon payment of the proper fee, to search and examine the record and to have an exemplification or a certified copy thereof made and delivered to him by the proper officer. Persons
entitled to
search and
to copies
of records
of courts

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Judicature Amendment Act, 1980*. Short title

An Act to amend
The Judicature Act

1st Reading

June 17th, 1980

2nd Reading

3rd Reading

MR. BREUGH

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Residential Tenancies Act, 1979

MR. PHILIP

Bill of the Legislature

Bill of the Legislature

EXPLANATORY NOTE

Bill of the Legislature

The purpose of the Bill is to amend the exemption provision in Part XI (Rent Review) of the Act in order to eliminate the exemption for buildings occupied after the 1st day of January, 1976.

BILL 132

1980

**An Act to amend
The Residential Tenancies Act, 1979**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Clause *c* of subsection 1 of section 134 of *The Residential Tenancies Act, 1979*, being chapter 78, is repealed. s. 134 (1) (c),
repealed
- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is *The Residential Tenancies Amendment Act, 1980*. Short title

An Act to amend
The Residential Tenancies Act, 1979

1st Reading

June 17th, 1980

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Residential Tenancies Act, 1979

MS BRYDEN

EXPLANATORY NOTE

The purpose of the Bill is to amend the exemption provision in Part XI (Rent Review) of the Act in order to eliminate the exemption for buildings operated or administered but not owned by the government of Canada or Ontario or an agency thereof.

BILL 133

1980

**An Act to amend
The Residential Tenancies Act, 1979**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of subsection 1 of section 134 of *The Residential Tenancies Act, 1979*, being chapter 78, is repealed and the following substituted therefor:

(a) a rental unit situate in a residential complex owned by the government of Canada or Ontario or a municipality, including a regional, district or metropolitan municipality, or any agency thereof.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Residential Tenancies Amendment Act, 1980*. Short title

An Act to amend
The Residential Tenancies Act, 1979

1st Reading

June 17th, 1980

2nd Reading

3rd Reading

MS BRYDEN

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend The Regional Municipality of
Ottawa-Carleton Act**

MR. CASSIDY

EXPLANATORY NOTE

The purpose of the Bill is to amend the ward boundaries for election of public school trustees to the Ottawa Board of Education, as requested by the Board on March 26th, 1980.

BILL 134

1980

An Act to amend The Regional Municipality of Ottawa-Carleton Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 of section 119 of *The Regional Municipality of Ottawa-Carleton Act*, being chapter 407 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1974, chapter 67, section 1, is repealed and the following substituted therefor:

s. 119 (3),
re-enacted

(3) Twelve members of the Ottawa Board shall be elected by the public school electors of the school division as follows,

Election of
members by
public school
electors

- (a) three members by a general vote of the public school electors in the North Ward, being the Dalhousie, Elmdale, Queensboro and Wellington wards of the City of Ottawa;
- (b) three members by a general vote of the public school electors in the South Ward, being the Alta Vista, Billings, Canterbury and Riverside wards of the City of Ottawa;
- (c) three members by a general vote of the public school electors in the East Ward, being the Village of Rockcliffe Park, the City of Vanier and the By-Rideau, Capital, Overbrook-Forbes and St. Georges wards of the City of Ottawa; and
- (d) three members by a general vote of the public school electors in the West Ward, being the Britannia, Carleton and Richmond wards of the City of Ottawa.

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is *The Regional Municipality of Ottawa-Carleton Amendment Act, 1980*.

Short title

An Act to amend
The Regional Municipality of
Ottawa-Carleton Act

1st Reading

June 17th, 1980

2nd Reading

3rd Reading

MR. CASSIDY

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Residential Tenancies Act, 1979

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to provide authority to the Residential Tenancy Commission to order a reduction in the rent charged by a landlord where the landlord's financing costs are reduced as a result of lower interest rates.

BILL 135

1980

**An Act to amend
The Residential Tenancies Act, 1979**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Section 131 of *The Residential Tenancies Act, 1979*, being chapter 78, is amended by adding thereto the following subsection: s. 131,
amended

(2a) Where the Commission determines that all or part of a rent increase is justified by increased financing costs caused by an increase in the prime interest rate, the Commission shall, on its own motion, review the rent increase and financing costs on an annual basis and where the Commission determines in a subsequent year that the financing costs have been reduced as a result of a reduction in the prime interest rate, the Commission shall order a reduction of the rent by an amount that is attributable to the reduced financing costs. Reduction
of financing
costs

- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is *The Residential Tenancies Amendment Act, 1980*. Short title

An Act to amend
The Residential Tenancies Act, 1979

1st Reading

June 17th, 1980

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Land Titles Act

**THE HON. FRANK DREA
Minister of Consumer and Commercial Relations**

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. The new provisions are intended to modify and clarify the law in respect of the creation of easements that are to affect or benefit condominium properties. The intent is to give certainty to the status of easements in phased condominium developments where, for example, at the time of registration of his first condominium, the declarant owns other land intended for later development.

BILL 136

1980

An Act to amend The Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 132, section 4 and amended by the Statutes of Ontario, 1979, chapter 93, section 3, is further amended by adding thereto the following subsection: s. 5,
amended

(4) A land registrar may appoint one or more assistant deputy land registrars who may exercise such of the powers and perform such of the duties of the land registrar in respect of his land titles division as are specified in writing by the land registrar. Assistant
deputy
land
registrars

2. The said Act is amended by adding thereto the following section: s. 43a,
enacted

43a.—(1) Where the first registered description of an easement is that contained in a condominium declaration and description, and the easement is expressly intended, Easement
created
by
condominium
declaration

(a) to be an easement through the common elements and to benefit other land owned by the declarant; or

(b) to be an easement through other land owned by the declarant and to benefit the condominium property,

the easement is created for all purposes to the same extent as if it had been created by a transfer and the declarant had not been the same person as the owner of the other land.

(2) Where, in a transfer that is registered before the registration of a transfer of any unit made by the declarant, an easement through land outside the condominium property is transferred by the declarant to the condominium corporation to be part of the common elements, the easement does not merge by operation of law. Easement
to benefit
condominium
property

Easement
affecting
common
elements

(3) Where, in a transfer that is registered before the registration of a transfer of any unit made by the declarant, the common elements are made subject to an easement intended to benefit other land owned by the declarant, the easement is created for all purposes as if the declarant had not been the same person as the owner of the other land.

Easement
becomes part
of common
elements
1978, c. 84

(4) Where, in an instrument, an intention is expressed by a condominium corporation that an easement transferred to the corporation is to be part of the common elements, and any instrument in relation thereto required by *The Condominium Act, 1978* has been registered, the easement, upon registration of the instrument in which the intention is expressed, becomes part of the common elements.

Where
R.S.O. 1970,
c. 349, s. 29,
does not
apply

(5) Section 29 of *The Planning Act* does not apply to an easement to which subsection 1 of this section applies, if the condominium description was approved or exempted under subsection 2 of section 50 of *The Condominium Act, 1978*, or a predecessor thereof.

Retroactive
effect

(6) Except to the extent that rights governed by this section have been determined by a court, this section has retroactive application.

Interpre-
tation

(7) In this section,

- (a) "common elements" means common elements;
- (b) "declarant" means declarant;
- (c) "declaration" means declaration;
- (d) "description" means description;
- (e) "property" means property; and
- (f) "unit" means unit,

as defined in *The Condominium Act, 1978*.

s. 46,
repealed

3. Section 46 of the said Act is repealed.

s. 47,
repealed

4. Section 47 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 43, is repealed.

s. 51 (6),
amended

5. Subsection 6 of section 51 of the said Act is amended by striking out "or of a charge" in the second line and by striking out "or charge" in the fifth line.

SECTION 3. Section 51 of the Act sets out rights and interests to which a title may be subject on first registration. Section 46 of the Act allows an applicant to state that he desires his title to be free from certain particulars. The section is inconsistent with sections 91 to 94 of the Act.

SECTION 4. Section 47 of the Act sets out a special procedure to be followed where the title is to be free from any public highway and is similar to section 46 of the Act which is being repealed by section 3 of the Bill.

SECTION 5. The provision amended provides that the title of a registered land owner or charge holder is subject to a writ of execution that has been entered in the title register. The reference to the charge is being removed as it has no application in current practice.

SECTION 6. The amendment deletes a reference to a section of the Act that was repealed in 1979.

SECTIONS 7, 8, 9, 10 AND 11. Sections 99, 100, 101 and 102 of the Act currently provide that certain covenants are implied in respect of a charge registered against land unless entries are made on the register negating the implication. Section 114 has a similar provision in respect of leasehold land.

Where parties have expressly agreed to terms differing from the statutory terms and these terms are not noted in the register, the statutory terms prevail notwithstanding the express agreement.

The effect of the amendments is to provide that the absence of a notation on the register does not negate an express provision in a registered document.

SECTION 12. The amendment is of a housekeeping nature to correct a technical reference. Owners of a charge hold on joint account and not as joint tenants.

SECTION 13. The provision being repealed refers to the registration of a consent under the *Estate Tax Act* (Canada). This provision is now obsolete.

6. Subsection 1 of section 58 of the said Act is amended by striking out “but this section is not binding upon a judge in respect of any order made by him under section 162” in the sixth, seventh and eighth lines. s. 58 (1),
amended
7. Subsection 1 of section 99 of the said Act is amended by striking out “unless there is an entry on the register negating the implication” in the fourth and fifth lines and inserting in lieu thereof “subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto”. s. 99 (1),
amended
8. Section 100 of the said Act is amended by striking out “unless there is an entry on the register negating the implication” in the fourth and fifth lines and inserting in lieu thereof “subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto”. s. 100,
amended
9. Section 101 of the said Act is amended by striking out “Subject to an entry to the contrary on the register” in the first line and inserting in lieu thereof “Subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto”. s. 101,
amended
10. Section 102 of the said Act is amended by striking out “Subject to an entry to the contrary on the register” in the first line and inserting in lieu thereof “Subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto”. s. 102,
amended
11. Section 114 of the said Act is amended by striking out “unless there is an entry on the register negating such implication” in the first and second lines and inserting in lieu thereof “subject to any express provision in the transfer or in any other registered instrument relating thereto”. s. 114,
amended
12. Section 137 of the said Act is repealed and the following substituted therefor: s. 137,
re-enacted

137. Where one of two or more persons who are registered as the owners of land as joint tenants or as the owners of a charge on a joint account with right of survivorship has died and it appears from the parcel registered that the interest of the deceased owner has passed by right of survivorship to the surviving owner or owners, the land registrar may, upon receipt of an application in the prescribed form, delete the name of the deceased owner from the parcel register.
13. Section 141 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 27, is repealed. s. 141,
repealed

s. 153 (1),
re-enacted

14.—(1) Subsection 1 of section 153 of the said Act is repealed and the following substituted therefor:

Notice of
executions

(1) A sheriff to whom a writ of execution or renewal thereof is directed shall, upon receiving from or on behalf of the judgment creditor, the prescribed fee and instructions to so do, forthwith deliver to the land registrar of each land titles division wholly or partially within the sheriff's territorial jurisdiction a copy of the writ or renewal, and no registered land is bound by any writ of execution until a copy delivered by the sheriff has been received and recorded by the land registrar.

s. 153 (8),
repealed

(2) Subsection 8 of the said section 153 is repealed.

s. 153 (10),
re-enacted

(3) Subsection 10 of the said section 153 is repealed and the following substituted therefor:

Liens for
bail or
legal aid
R.S.O. 1970,
cc. 37, 239

(10) Notwithstanding subsection 2 of section 3 of *The Bail Act* and subsection 4 of section 18 of *The Legal Aid Act*, copies of certificates of liens under either Act may be recorded in the same index or book in which writs are recorded under subsection 2 of this section.

s. 161 (10),
re-enacted

15. Subsection 10 of section 161 of the said Act is repealed and the following substituted therefor:

Correction
of plan

(10) An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations.

s. 168,
amended

16. Section 168 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 31, is further amended by adding thereto the following subsection:

Claim
under
1978, c. 2

(3) Land dedicated by its owner for a street or public highway is not subject to any claim under Part III of *The Family Law Reform Act, 1978* by the spouse of the person by whom it was dedicated.

Commence-
ment

17.—(1) This Act, except section 13, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 13 shall be deemed to have come into force on the 1st day of July, 1980.

Short title

18. The short title of this Act is *The Land Titles Amendment Act, 1980*.

SECTION 14.—Subsection 1. The provision currently provides that when a sheriff is so directed, he shall forward writs of execution to the land registrars. The provision, as recast, is reworded to clarify the intent. A substantive change is to provide that the execution does not bind land until it is recorded by the land registrar. Currently, it binds land when it is received by the land registrar.

Subsection 2. The provision being repealed provides for the fee to be paid to a sheriff for transmitting a writ of execution to a land registrar. This will be dealt with by regulation under *The Judicature Act*. There are fee tariffs currently established under that Act.

Subsection 3. The provision currently provides that liens under *The Bail Act* may be recorded in the same manner as writs of execution. The new provision extends this to include liens under *The Legal Aid Act*.

SECTION 15. The provision now sets out the procedure to be followed when correcting errors, etcetera, in a registered or deposited plan. The new provision provides that the procedure may be set out in the regulations.

SECTION 16. Self-explanatory.

An Act to amend The Land Titles Act

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(Government Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Land Titles Act

**THE HON. FRANK DREA
Minister of Consumer and Commercial Relations**

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. The new provisions are intended to modify and clarify the law in respect of the creation of easements that are to affect or benefit condominium properties. The intent is to give certainty to the status of easements in phased condominium developments where, for example, at the time of registration of his first condominium, the declarant owns other land intended for later development.

BILL 136

1980

An Act to amend The Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 132, section 4 and amended by the Statutes of Ontario, 1979, chapter 93, section 3, is further amended by adding thereto the following subsections:

(4) A land registrar may appoint one or more assistant deputy land registrars who may exercise such of the powers and perform such of the duties of the land registrar in respect of his land titles division as are specified in writing by the land registrar.

s. 5,
amended
Assistant
deputy
land
registrars

(5) A deputy land registrar appointed under *The Public Service Act* shall act under the direction of the land registrar and when so acting may exercise the powers and perform the duties of a land registrar.

Powers and
duties of
deputy land
registrars
R.S.O. 1970,
c. 386

2. The said Act is amended by adding thereto the following section:

43a.—(1) Where the first registered description of an easement is that contained in a condominium declaration and description, and the easement is expressly intended,

s. 43a,
enacted
Easement
created
by
condominium
declaration

(a) to be an easement through the common elements and to benefit other land owned by the declarant; or

(b) to be an easement through other land owned by the declarant and to benefit the condominium property,

the easement is created for all purposes to the same extent as if it had been created by a transfer and the declarant had not been the same person as the owner of the other land.

Easement
to benefit
condominium
property

(2) Where, in a transfer that is registered before the registration of a transfer of any unit made by the declarant, an easement through land outside the condominium property is transferred by the declarant to the condominium corporation to be part of the common elements, the easement does not merge by operation of law.

Easement
affecting
common
elements

(3) Where, in a transfer that is registered before the registration of a transfer of any unit made by the declarant, the common elements are made subject to an easement expressly intended to benefit other land owned by the declarant, the easement is created for all purposes as if the declarant had not been the same person as the owner of the other land.

Easement
becomes part
of common
elements
1978, c. 84

(4) Where, in an instrument, an intention is expressed by a condominium corporation that an easement transferred to the corporation is to be part of the common elements, and any instrument in relation thereto required by *The Condominium Act, 1978* has been registered, the easement, upon registration of the instrument in which the intention is expressed, becomes part of the common elements.

Where
R.S.O. 1970,
c. 349, s. 29,
does not
apply

(5) Section 29 of *The Planning Act* does not apply to an easement to which subsection 1 of this section applies, if the condominium description was approved or exempted under subsection 2 of section 50 of *The Condominium Act, 1978*, or a predecessor thereof.

Retroactive
effect

(6) Except to the extent that rights governed by this section have been determined by a court, this section has retroactive application.

Interpre-
tation

(7) In this section,

- (a) "common elements" means common elements;
- (b) "declarant" means declarant;
- (c) "declaration" means declaration;
- (d) "description" means description;
- (e) "property" means property; and
- (f) "unit" means unit,

as defined in *The Condominium Act, 1978*.

s. 46,
repealed

3. Section 46 of the said Act is repealed.

SECTION 3. Section 51 of the Act sets out rights and interests to which a title may be subject on first registration. Section 46 of the Act allows an applicant to state that he desires his title to be free from certain particulars. The section is inconsistent with sections 91 to 94 of the Act.

SECTION 4. Section 47 of the Act sets out a special procedure to be followed where the title is to be free from any public highway and is similar to section 46 of the Act which is being repealed by section 3 of the Bill.

SECTION 5. The provision amended provides that the title of a registered land owner or charge holder is subject to a writ of execution that has been entered in the title register. The reference to the charge is being removed as it has no application in current practice.

SECTION 6. The amendment deletes a reference to a section of the Act that was repealed in 1979.

SECTIONS 7, 8, 9, 10 AND 11. Sections 99, 100, 101 and 102 of the Act currently provide that certain covenants are implied in respect of a charge registered against land unless entries are made on the register negating the implication. Section 114 has a similar provision in respect of leasehold land.

Where parties have expressly agreed to terms differing from the statutory terms and these terms are not noted in the register, the statutory terms prevail notwithstanding the express agreement.

The effect of the amendments is to provide that the absence of a notation on the register does not negate an express provision in a registered document.

SECTION 12. The amendment is of a housekeeping nature to correct a technical reference. Owners of a charge hold on joint account and not as joint tenants.

4. Section 47 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 43, is repealed. s. 47,
repealed
5. Subsection 6 of section 51 of the said Act is amended by striking out "or of a charge" in the second line and by striking out "or charge" in the fifth line. s. 51 (6),
amended
6. Subsection 1 of section 58 of the said Act is amended by striking out "but this section is not binding upon a judge in respect of any order made by him under section 162" in the sixth, seventh and eighth lines. s. 58 (1),
amended
7. Subsection 1 of section 99 of the said Act is amended by striking out "unless there is an entry on the register negating the implication" in the fourth and fifth lines and inserting in lieu thereof "subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 99 (1),
amended
8. Section 100 of the said Act is amended by striking out "unless there is an entry on the register negating the implication" in the fourth and fifth lines and inserting in lieu thereof "subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 100,
amended
9. Section 101 of the said Act is amended by striking out "Subject to an entry to the contrary on the register" in the first line and inserting in lieu thereof "Subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 101,
amended
10. Section 102 of the said Act is amended by striking out "Subject to an entry to the contrary on the register" in the first line and inserting in lieu thereof "Subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 102,
amended
11. Section 114 of the said Act is amended by striking out "unless there is an entry on the register negating such implication" in the first and second lines and inserting in lieu thereof "subject to any express provision in the transfer or in any other registered instrument relating thereto". s. 114,
amended
12. Section 137 of the said Act is repealed and the following substituted therefor: s. 137,
re-enacted
 137. Where one of two or more persons who are registered as the owners of land as joint tenants or as the owners of a charge on a joint account with right of survivorship has died and it appears from the parcel register that the interest of the deceased ownerRemoval of
name of
deceased
joint
tenant

has passed by right of survivorship to the surviving owner or owners, the land registrar may, upon receipt of an application in the prescribed form, delete the name of the deceased owner from the parcel register.

s. 141,
repealed

13. Section 141 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 27, is repealed.

s. 153 (1),
re-enacted

14.—(1) Subsection 1 of section 153 of the said Act is repealed and the following substituted therefor:

Notice of
executions

(1) A sheriff to whom a writ of execution or renewal thereof is directed shall, upon receiving from or on behalf of the judgment creditor, the prescribed fee and instructions to so do, forthwith deliver to the land registrar of each land titles division wholly or partially within the sheriff's territorial jurisdiction a copy of the writ or renewal, and no registered land is bound by any writ of execution until a copy delivered by the sheriff has been received and recorded by the land registrar.

s. 153 (8),
repealed

(2) Subsection 8 of the said section 153 is repealed.

s. 153 (10),
re-enacted

(3) Subsection 10 of the said section 153 is repealed and the following substituted therefor:

Liens for
bail or
legal aid
R.S.O. 1970,
cc. 37, 239

(10) Notwithstanding subsection 2 of section 3 of *The Bail Act* and subsection 4 of section 18 of *The Legal Aid Act*, copies of certificates of liens under either Act may be recorded in the same index or book in which writs are recorded under subsection 2 of this section.

s. 161 (10),
re-enacted

15. Subsection 10 of section 161 of the said Act is repealed and the following substituted therefor:

Correction
of plan

(10) An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations.

s. 168,
amended

16. Section 168 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 31, is further amended by adding thereto the following subsection:

Claim
under
1978, c. 2

(3) Land dedicated by its owner for a street or public highway is not subject to any claim under Part III of *The Family Law Reform Act, 1978* by the spouse of the person by whom it was dedicated.

Commence-
ment

17.—(1) This Act, except section 13, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 13 shall be deemed to have come into force on the 1st day of July, 1980.

Short title

18. The short title of this Act is *The Land Titles Amendment Act, 1980*.

SECTION 13. The provision being repealed refers to the registration of a consent under the *Estate Tax Act* (Canada). This provision is now obsolete.

SECTION 14.—Subsection 1. The provision currently provides that when a sheriff is so directed, he shall forward writs of execution to the land registrars. The provision, as recast, is reworded to clarify the intent. A substantive change is to provide that the execution does not bind land until it is recorded by the land registrar. Currently, it binds land when it is received by the land registrar.

Subsection 2. The provision being repealed provides for the fee to be paid to a sheriff for transmitting a writ of execution to a land registrar. This will be dealt with by regulation under *The Judicature Act*. There are fee tariffs currently established under that Act.

Subsection 3. The provision currently provides that liens under *The Bail Act* may be recorded in the same manner as writs of execution. The new provision extends this to include liens under *The Legal Aid Act*.

SECTION 15. The provision now sets out the procedure to be followed when correcting errors, etcetera, in a registered or deposited plan. The new provision provides that the procedure may be set out in the regulations.

SECTION 16. Self-explanatory.

An Act to amend The Land Titles Act

1st Reading

June 19th, 1980

2nd Reading

October 7th, 1980

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 136

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Land Titles Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 136

1980

An Act to amend The Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 5 of *The Land Titles Act*, being chapter 234 of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1972, chapter 132, section 4 and amended by the Statutes of Ontario, 1979, chapter 93, section 3, is further amended by adding thereto the following subsections:

(4) A land registrar may appoint one or more assistant deputy land registrars who may exercise such of the powers and perform such of the duties of the land registrar in respect of his land titles division as are specified in writing by the land registrar.

s. 5,
amended
Assistant
deputy
land
registrars

(5) A deputy land registrar appointed under *The Public Service Act* shall act under the direction of the land registrar and when so acting may exercise the powers and perform the duties of a land registrar.

Powers and
duties of
deputy land
registrars
R.S.O. 1970,
c. 386

2. The said Act is amended by adding thereto the following section:

43a.—(1) Where the first registered description of an easement is that contained in a condominium declaration and description, and the easement is expressly intended,

s. 43a,
enacted

Easement
created
by
condominium
declaration

(a) to be an easement through the common elements and to benefit other land owned by the declarant; or

(b) to be an easement through other land owned by the declarant and to benefit the condominium property,

the easement is created for all purposes to the same extent as if it had been created by a transfer and the declarant had not been the same person as the owner of the other land.

Easement
to benefit
condominium
property

(2) Where, in a transfer that is registered before the registration of a transfer of any unit made by the declarant, an easement through land outside the condominium property is transferred by the declarant to the condominium corporation to be part of the common elements, the easement does not merge by operation of law.

Easement
affecting
common
elements

(3) Where, in a transfer that is registered before the registration of a transfer of any unit made by the declarant, the common elements are made subject to an easement expressly intended to benefit other land owned by the declarant, the easement is created for all purposes as if the declarant had not been the same person as the owner of the other land.

Easement
becomes part
of common
elements
1978, c. 84

(4) Where, in an instrument, an intention is expressed by a condominium corporation that an easement transferred to the corporation is to be part of the common elements, and any instrument in relation thereto required by *The Condominium Act, 1978* has been registered, the easement, upon registration of the instrument in which the intention is expressed, becomes part of the common elements.

Where
R.S.O. 1970,
c. 349, s. 29,
does not
apply

(5) Section 29 of *The Planning Act* does not apply to an easement to which subsection 1 of this section applies, if the condominium description was approved or exempted under subsection 2 of section 50 of *The Condominium Act, 1978*, or a predecessor thereof.

Retroactive
effect

(6) Except to the extent that rights governed by this section have been determined by a court, this section has retroactive application.

Interpre-
tation

(7) In this section,

- (a) "common elements" means common elements;
- (b) "declarant" means declarant;
- (c) "declaration" means declaration;
- (d) "description" means description;
- (e) "property" means property; and
- (f) "unit" means unit,

as defined in *The Condominium Act, 1978*.

4. Section 47 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 1, section 43, is repealed. s. 47,
repealed
5. Subsection 6 of section 51 of the said Act is amended by striking out "or of a charge" in the second line and by striking out "or charge" in the fifth line. s. 51 (6),
amended
6. Subsection 1 of section 58 of the said Act is amended by striking out "but this section is not binding upon a judge in respect of any order made by him under section 162" in the sixth, seventh and eighth lines. s. 58 (1),
amended
7. Subsection 1 of section 99 of the said Act is amended by striking out "unless there is an entry on the register negating the implication" in the fourth and fifth lines and inserting in lieu thereof "subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 99 (1),
amended
8. Section 100 of the said Act is amended by striking out "unless there is an entry on the register negating the implication" in the fourth and fifth lines and inserting in lieu thereof "subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 100,
amended
9. Section 101 of the said Act is amended by striking out "Subject to an entry to the contrary on the register" in the first line and inserting in lieu thereof "Subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 101,
amended
10. Section 102 of the said Act is amended by striking out "Subject to an entry to the contrary on the register" in the first line and inserting in lieu thereof "Subject to any express provision in the instrument that created the charge or in any other registered instrument relating thereto". s. 102,
amended
11. Section 114 of the said Act is amended by striking out "unless there is an entry on the register negating such implication" in the first and second lines and inserting in lieu thereof "subject to any express provision in the transfer or in any other registered instrument relating thereto". s. 114,
amended
12. Section 137 of the said Act is repealed and the following substituted therefor: s. 137,
re-enacted

137. Where one of two or more persons who are registered as the owners of land as joint tenants or as the owners of a charge on a joint account with right of survivorship has died and it appears from the parcel register that the interest of the deceased owner

Removal of
name of
deceased
joint
tenant

has passed by right of survivorship to the surviving owner or owners, the land registrar may, upon receipt of an application in the prescribed form, delete the name of the deceased owner from the parcel register.

s. 141,
repealed

13. Section 141 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 27, is repealed.

s. 153 (1),
re-enacted

14.—(1) Subsection 1 of section 153 of the said Act is repealed and the following substituted therefor:

Notice of
executions

(1) A sheriff to whom a writ of execution or renewal thereof is directed shall, upon receiving from or on behalf of the judgment creditor, the prescribed fee and instructions to so do, forthwith deliver to the land registrar of each land titles division wholly or partially within the sheriff's territorial jurisdiction a copy of the writ or renewal, and no registered land is bound by any writ of execution until a copy delivered by the sheriff has been received and recorded by the land registrar.

s. 153 (8),
repealed

(2) Subsection 8 of the said section 153 is repealed.

s. 153 (10),
re-enacted

(3) Subsection 10 of the said section 153 is repealed and the following substituted therefor:

Liens for
bail or
legal aid
R.S.O. 1970,
cc. 37, 239

(10) Notwithstanding subsection 2 of section 3 of *The Bail Act* and subsection 4 of section 18 of *The Legal Aid Act*, copies of certificates of liens under either Act may be recorded in the same index or book in which writs are recorded under subsection 2 of this section.

s. 161 (10),
re-enacted

15. Subsection 10 of section 161 of the said Act is repealed and the following substituted therefor:

Correction
of plan

(10) An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations.

s. 168,
amended

16. Section 168 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 132, section 31, is further amended by adding thereto the following subsection:

Claim
under
1978, c. 2

(3) Land dedicated by its owner for a street or public highway is not subject to any claim under Part III of *The Family Law Reform Act, 1978* by the spouse of the person by whom it was dedicated.

Commence-
ment

17.—(1) This Act, except section 13, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 13 shall be deemed to have come into force on the 1st day of July, 1980.

Short title

18. The short title of this Act is *The Land Titles Amendment Act, 1980*.

An Act to amend The Land Titles Act

1st Reading

June 19th, 1980

2nd Reading

October 7th, 1980

3rd Reading

October 14th, 1980

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Registry Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. The provisions being repealed set out the information that is to be shown in an abstract. The new provision provides that the required information will be set out in the regulations.

SECTION 3. Self-explanatory.

SECTION 4. The new provisions are intended to modify and clarify the law in respect of the creation of easements that are to affect or benefit condominium properties. The intent is to give certainty to the status of easements in phased condominium developments where, for example, at the time of registration of his first condominium, the declarant owns other land intended for later development.

BILL 137 1980

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 133, section 5 and 1979, chapter 94, section 4, is further amended by adding thereto the following subsection:

s. 8,
amended

(4) A land registrar may appoint one or more assistant deputy land registrars who may exercise such of the powers and perform such of the duties of the land registrar in respect of his registry division as are specified in writing by the land registrar.

Appointment
of assistant
deputy land
registrars

2. Subsections 1 to 6 of section 15 of the said Act are repealed and the following substituted therefor:

s. 15 (1),
re-enacted;
s. 15 (2-6),
repealed

(1) Upon receipt of a request thereof and the prescribed fee, a land registrar shall furnish an abstract in the prescribed form containing such information as is prescribed in respect of any land that is in his registry division.

Abstracts

3. Section 16 of the said Act is amended by adding thereto the following subsection:

s. 16,
amended

(2) Where a land registrar is unable to produce an instrument or book that is copied on microfilm, he shall produce the microfilm copy for inspection.

Microfilm
copy

4. The said Act is amended by adding thereto the following section:

s. 24a,
enacted

24a.—(1) Where the first registered description of an easement is that contained in a condominium declaration and description, and the easement is expressly intended,

Easement
created by
condominium
declaration

(a) to be an easement through the common elements and to benefit other land owned by the declarant; or

- (b) to be an easement through other land owned by the declarant and to benefit the condominium property,

the easement is created for all purposes to the same extent as if it had been created by a transfer and the declarant had not been the same person as the owner of the other land.

Easement
to benefit
condominium
property

(2) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, an easement through land outside the condominium property is transferred by the declarant to the condominium corporation to be part of the common elements, the easement does not merge by operation of law.

Easement
affecting
common
elements

(3) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, the common elements are made subject to an easement intended to benefit other land owned by the declarant, the easement is created for all purposes as if the declarant had not been the same person as the owner of the other land.

Easement
becomes part
of common
elements
1978, c. 84

(4) Where, in an instrument, an intention is expressed by a condominium corporation that an easement transferred to the corporation is to be part of the common elements, and any instrument in relation thereto required by *The Condominium Act, 1978* has been registered, the easement, upon registration of the instrument in which the intention is expressed, becomes part of the common elements.

Where
R.S.O. 1970,
c. 349, s. 29,
does not
apply

(5) Section 29 of *The Planning Act* does not apply to an easement to which subsection 1 of this section applies, if the condominium description was approved or exempted under subsection 2 of section 50 of *The Condominium Act, 1978*, or a predecessor thereof.

Retroactive
effect

(6) Except to the extent that rights governed by this section have been determined by a court, this section has retroactive application.

Interpre-
tation

(7) In this section,

- (a) "common elements" means common elements;
- (b) "declarant" means declarant;
- (c) "declaration" means declaration;
- (d) "description" means description;
- (e) "property" means property; and



SECTION 5. The provision being repealed refers to registration of a consent under the *Estate Tax Act* (Canada). This provision is now obsolete.

SECTION 6. The amendment deletes an obsolete reference that should have been deleted in 1966 when the predecessor of the current section 67 was re-enacted.

SECTION 7. Self-explanatory.

SECTION 8. Section 79 (2) of the Act now permits a land registrar to forego the depositing of a reference plan in certain circumstances and accept, instead, a sketch drawn to scale.

The amendment provides that the sketch shall be prepared in accordance with the regulations.

SECTION 9. This is a housekeeping amendment with no substantive change.

SECTION 10. The provision now sets out the procedure to be followed when correcting errors, etcetera, in a registered or deposited plan. The new provision provides that the procedure may be set out in the regulations.

SECTION 11. The power to make regulations is amended to complement the amendments made by sections 8 and 10 of the Bill.

(f) "unit" means unit,

as defined in *The Condominium Act, 1978*.

1978, c. 84

5. Section 51 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 21, is repealed. s. 51,
repealed

6. Subsection 3 of section 69 of the said Act is amended by striking out "Subject to section 67" in the first line. s. 69 (3),
amended

7. Section 78 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 30 and 1979, chapter 94, section 28, is further amended by adding thereto the following subsection: s. 78,
amended

(9) Land dedicated by its owner for a street or public highway is not subject to any claim under Part III of *The Family Law Reform Act, 1978* by the spouse of the person by whom it was dedicated. Claim under
1978, c. 2

8. Subsection 2 of section 79 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 32, is amended by striking out "drawn to scale and including the distance from the land described in the instrument to one or more lot angles, attached to the instrument" in the fifth, sixth and seventh lines and inserting in lieu thereof "prepared in accordance with the regulations". s. 79 (2),
amended

9. Subsection 1 of section 81 of the said Act is amended by striking out "lots, blocks or parts" in the second line and inserting in lieu thereof "lots or blocks". s. 81 (1),
amended

10. Section 87 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 34, is repealed and the following substituted therefor: s. 87,
re-enacted

87. An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations. Correction
of plan

11. Subsection 1 of section 102 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 8, section 3 and 1979, chapter 94, section 41, is further amended by adding thereto the following clauses: s. 102 (1),
amended

(g) governing the correction of errors, defects and omissions in registered and deposited plans;

(h) prescribing the manner in which sketches referred to in subsection 2 of section 79 are to be prepared.

s. 104,
amended

12. Section 104 of the said Act is amended by striking out "an instrument" in the first line and inserting in lieu thereof "a plan of survey".

s. 106,
amended

13. Section 106 of the said Act is amended by striking out "in duplicate" in the second line and by inserting after "duplicate" in the fifth line "if any".

Commence-
ment

14.—(1) This Act, except section 5, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 5 shall be deemed to have come into force on the 1st day of July, 1980.

Short title

15. The short title of this Act is *The Registry Amendment Act, 1980*.

SECTION 12. The amendment is to modernize the interpretation of "document".

SECTION 13. The amendment is of a housekeeping nature.

An Act to amend The Registry Act

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(*Government Bill*)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Registry Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Self-explanatory.

SECTION 2. The provisions being repealed set out the information that is to be shown in an abstract. The new provision provides that the required information will be set out in the regulations.

SECTION 3. Self-explanatory.

SECTION 4. The new provisions are intended to modify and clarify the law in respect of the creation of easements that are to affect or benefit condominium properties. The intent is to give certainty to the status of easements in phased condominium developments where, for example, at the time of registration of his first condominium, the declarant owns other land intended for later development.

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 133, section 5 and 1979, chapter 94, section 4, is further amended by adding thereto the following subsections:

(4) A land registrar may appoint one or more assistant deputy land registrars who may exercise such of the powers and perform such of the duties of the land registrar in respect of his registry division as are specified in writing by the land registrar.

s. 8,
amended

Appointment
of assistant
deputy land
registrars

(5) A deputy land registrar appointed under *The Public Service Act* shall act under the direction of the land registrar and when so acting may exercise the powers and perform the duties of a land registrar.

Powers and
duties of
deputy land
registrars
R.S.O. 1970,
c. 386

2. Subsections 1 to 6 of section 15 of the said Act are repealed and the following substituted therefor:

s. 15 (1),
re-enacted;
s. 15 (2-6),
repealed

(1) Upon receipt of a request thereof and the prescribed fee, a land registrar shall furnish an abstract in the prescribed form containing such information as is prescribed in respect of any land that is in his registry division.

Abstracts

3. Section 16 of the said Act is amended by adding thereto the following subsection:

s. 16,
amended

(2) Where a land registrar is unable to produce an instrument or book that is copied on microfilm, he shall produce the microfilm copy for inspection.

Microfilm
copy

4. The said Act is amended by adding thereto the following section:

s. 24a,
enacted

Easement
created by
condominium
declaration

24a.—(1) Where the first registered description of an easement is that contained in a condominium declaration and description, and the easement is expressly intended,

(a) to be an easement through the common elements and to benefit other land owned by the declarant; or

(b) to be an easement through other land owned by the declarant and to benefit the condominium property,

the easement is created for all purposes to the same extent as if it had been created by a deed and the declarant had not been the same person as the owner of the other land.

Easement
to benefit
condominium
property

(2) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, an easement through land outside the condominium property is transferred by the declarant to the condominium corporation to be part of the common elements, the easement does not merge by operation of law.

Easement
affecting
common
elements

(3) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, the common elements are made subject to an easement expressly intended to benefit other land owned by the declarant, the easement is created for all purposes as if the declarant had not been the same person as the owner of the other land.

Easement
becomes part
of common
elements
1978, c. 84

(4) Where, in an instrument, an intention is expressed by a condominium corporation that an easement transferred to the corporation is to be part of the common elements, and any instrument in relation thereto required by *The Condominium Act, 1978* has been registered, the easement, upon registration of the instrument in which the intention is expressed, becomes part of the common elements.

Where
R.S.O. 1970,
c. 349, s. 29,
does not
apply

(5) Section 29 of *The Planning Act* does not apply to an easement to which subsection 1 of this section applies, if the condominium description was approved or exempted under subsection 2 of section 50 of *The Condominium Act, 1978*, or a predecessor thereof.

Retroactive
effect

(6) Except to the extent that rights governed by this section have been determined by a court, this section has retroactive application.

Interpre-
tation

(7) In this section,

(a) "common elements" means common elements;



SECTION 5. The provision being repealed refers to registration of a consent under the *Estate Tax Act* (Canada). This provision is now obsolete.

SECTION 6. The amendment deletes an obsolete reference that should have been deleted in 1966 when the predecessor of the current section 67 was re-enacted.

SECTION 7. Self-explanatory.

SECTION 8. Section 79 (2) of the Act now permits a land registrar to forego the depositing of a reference plan in certain circumstances and accept, instead, a sketch drawn to scale.

The amendment provides that the sketch shall be prepared in accordance with the regulations.

SECTION 9. This is a housekeeping amendment with no substantive change.

SECTION 10. The provision now sets out the procedure to be followed when correcting errors, etcetera, in a registered or deposited plan. The new provision provides that the procedure may be set out in the regulations.

SECTION 11. The power to make regulations is amended to complement the amendments made by sections 8 and 10 of the Bill.

- (b) "declarant" means declarant;
- (c) "declaration" means declaration;
- (d) "description" means description;
- (e) "property" means property; and
- (f) "unit" means unit,

as defined in *The Condominium Act, 1978*.

1978, c. 84

5. Section 51 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 21, is repealed. s. 51,
repealed
6. Subsection 3 of section 69 of the said Act is amended by striking out "Subject to section 67" in the first line. s. 69 (3),
amended
7. Section 78 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 30 and 1979, chapter 94, section 28, is further amended by adding thereto the following subsection:

(9) Land dedicated by its owner for a street or public highway is not subject to any claim under Part III of *The Family Law Reform Act, 1978* by the spouse of the person by whom it was dedicated.

s. 78,
amended

Claim under
1978, c. 2
8. Subsection 2 of section 79 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 32, is amended by striking out "drawn to scale and including the distance from the land described in the instrument to one or more lot angles, attached to the instrument" in the fifth, sixth and seventh lines and inserting in lieu thereof "prepared in accordance with the regulations". s. 79 (2),
amended
9. Subsection 1 of section 81 of the said Act is amended by striking out "lots, blocks or parts" in the second line and inserting in lieu thereof "lots or blocks". s. 81 (1),
amended
10. Section 87 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 34, is repealed and the following substituted therefor:

87. An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations.

s. 87,
re-enacted

Correction
of plan
11. Subsection 1 of section 102 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 8, section 3 and 1979, chapter 94, s. 102 (1),
amended

section 41, is further amended by adding thereto the following clauses:

(g) governing the correction of errors, defects and omissions in registered and deposited plans;

(h) prescribing the manner in which sketches referred to in subsection 2 of section 79 are to be prepared.

s. 104,
amended

12. Section 104 of the said Act is amended by striking out "an instrument" in the first line and inserting in lieu thereof "a plan of survey".

s. 106,
amended

13. Section 106 of the said Act is amended by striking out "in duplicate" in the second line and by inserting after "duplicate" in the fifth line "if any".

Commence-
ment

14.—(1) This Act, except section 5, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 5 shall be deemed to have come into force on the 1st day of July, 1980.

Short title

15. The short title of this Act is *The Registry Amendment Act, 1980*.

SECTION 12. The amendment is to modernize the interpretation of "document".

SECTION 13. The amendment is of a housekeeping nature.

An Act to amend The Registry Act

1st Reading

June 19th, 1980

2nd Reading

October 7th, 1980

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 137

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Registry Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY J. C. HATCHER, QUEEN'S PRINTER FOR ONTARIO

An Act to amend The Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 8 of *The Registry Act*, being chapter 409 of the Revised Statutes of Ontario, 1970, as amended by the Statutes of Ontario, 1972, chapter 133, section 5 and 1979, chapter 94, section 4, is further amended by adding thereto the following subsections:
 - (4) A land registrar may appoint one or more assistant deputy land registrars who may exercise such of the powers and perform such of the duties of the land registrar in respect of his registry division as are specified in writing by the land registrar. s. 8,
amended

Appointment
of assistant
deputy land
registrars
 - (5) A deputy land registrar appointed under *The Public Service Act* shall act under the direction of the land registrar and when so acting may exercise the powers and perform the duties of a land registrar. Powers and
duties of
deputy land
registrars
R.S.O. 1970,
c. 386
2. Subsections 1 to 6 of section 15 of the said Act are repealed and the following substituted therefor: s. 15 (1),
re-enacted;
s. 15 (2-6),
repealed
 - (1) Upon receipt of a request thereof and the prescribed fee, a land registrar shall furnish an abstract in the prescribed form containing such information as is prescribed in respect of any land that is in his registry division. Abstracts
3. Section 16 of the said Act is amended by adding thereto the following subsection: s. 16,
amended
 - (2) Where a land registrar is unable to produce an instrument or book that is copied on microfilm, he shall produce the microfilm copy for inspection. Microfilm
copy
4. The said Act is amended by adding thereto the following section: s. 24a,
enacted

Easement
created by
condominium
declaration

24a.—(1) Where the first registered description of an easement is that contained in a condominium declaration and description, and the easement is expressly intended,

(a) to be an easement through the common elements and to benefit other land owned by the declarant; or

(b) to be an easement through other land owned by the declarant and to benefit the condominium property,

the easement is created for all purposes to the same extent as if it had been created by a deed and the declarant had not been the same person as the owner of the other land.

Easement
to benefit
condominium
property

(2) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, an easement through land outside the condominium property is transferred by the declarant to the condominium corporation to be part of the common elements, the easement does not merge by operation of law.

Easement
affecting
common
elements

(3) Where, in a deed that is registered before the registration of a deed of any unit made by the declarant, the common elements are made subject to an easement expressly intended to benefit other land owned by the declarant, the easement is created for all purposes as if the declarant had not been the same person as the owner of the other land.

Easement
becomes part
of common
elements
1978, c. 84

(4) Where, in an instrument, an intention is expressed by a condominium corporation that an easement transferred to the corporation is to be part of the common elements, and any instrument in relation thereto required by *The Condominium Act, 1978* has been registered, the easement, upon registration of the instrument in which the intention is expressed, becomes part of the common elements.

Where
R.S.O. 1970,
c. 349, s. 29,
does not
apply

(5) Section 29 of *The Planning Act* does not apply to an easement to which subsection 1 of this section applies, if the condominium description was approved or exempted under subsection 2 of section 50 of *The Condominium Act, 1978*, or a predecessor thereof.

Retroactive
effect

(6) Except to the extent that rights governed by this section have been determined by a court, this section has retroactive application.

Interpre-
tation

(7) In this section,

(a) "common elements" means common elements;

- (b) "declarant" means declarant;
- (c) "declaration" means declaration;
- (d) "description" means description;
- (e) "property" means property; and
- (f) "unit" means unit,

as defined in *The Condominium Act, 1978*.

1978, c. 84

5. Section 51 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 21, is repealed. s. 51,
repealed
6. Subsection 3 of section 69 of the said Act is amended by striking out "Subject to section 67" in the first line. s. 69 (3),
amended
7. Section 78 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 30 and 1979, chapter 94, section 28, is further amended by adding thereto the following subsection:

(9) Land dedicated by its owner for a street or public highway is not subject to any claim under Part III of *The Family Law Reform Act, 1978* by the spouse of the person by whom it was dedicated.

s. 78,
amended
Claim under
1978, c. 2
8. Subsection 2 of section 79 of the said Act, as re-enacted by the Statutes of Ontario, 1972, chapter 133, section 32, is amended by striking out "drawn to scale and including the distance from the land described in the instrument to one or more lot angles, attached to the instrument" in the fifth, sixth and seventh lines and inserting in lieu thereof "prepared in accordance with the regulations". s. 79 (2),
amended
9. Subsection 1 of section 81 of the said Act is amended by striking out "lots, blocks or parts" in the second line and inserting in lieu thereof "lots or blocks". s. 81 (1),
amended
10. Section 87 of the said Act, as amended by the Statutes of Ontario, 1972, chapter 133, section 34, is repealed and the following substituted therefor:

87. An error, defect or omission in a registered or deposited plan may be corrected in accordance with the regulations.

s. 87,
re-enacted
Correction
of plan
11. Subsection 1 of section 102 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 8, section 3 and 1979, chapter 94, s. 102 (1),
amended

section 41, is further amended by adding thereto the following clauses:

(g) governing the correction of errors, defects and omissions in registered and deposited plans;

(h) prescribing the manner in which sketches referred to in subsection 2 of section 79 are to be prepared.

s. 104,
amended

12. Section 104 of the said Act is amended by striking out "an instrument" in the first line and inserting in lieu thereof "a plan of survey".

s. 106,
amended

13. Section 106 of the said Act is amended by striking out "in duplicate" in the second line and by inserting after "duplicate" in the fifth line "if any".

Commence-
ment

14.—(1) This Act, except section 5, comes into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(2) Section 5 shall be deemed to have come into force on the 1st day of July, 1980.

Short title

15. The short title of this Act is *The Registry Amendment Act, 1980*.

一、論文學之價值

二、論文學之功用

三、論文學之種類

An Act to amend The Registry Act

1st Reading

June 19th, 1980

2nd Reading

October 7th, 1980

3rd Reading

October 14th, 1980

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to revise The Boundaries Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

EXPLANATORY NOTE

The Boundaries Act is being revised to change administrative procedures without altering the basic concept for the confirmation of boundaries. The principal changes include the following:

1. Section 3 replaces the present section 4 (1) of the Act. The proposed section 3 (1) simplifies the wording of clauses *a*, *b* and *c* of the present section 4 (1) and clarifies that the purpose of an application under the Act is to confirm the true location on the ground of a boundary where doubt exists as to its true location.
2. Under subsection 2 of section 3, the Crown, a municipality or a local roads board will be able to apply to confirm the location of the boundaries of a public highway whether or not doubt exists as to the location of the boundaries of the highway.
3. The requirement that a copy of a plan of survey and the field notes of the survey be submitted with the application is set out in the legislation.
4. Where a municipality is the applicant, it will be able to levy a special rate of assessment to recover its costs on the parcels included in the application, except where the application is made for the purpose of confirming the boundaries of a public highway. At present, the municipality may only recover its costs in this manner where it has also made an application under section 34 of *The Land Titles Act*.
5. The procedures for giving notice of the application and hearing are revised. At present, notice of the application and hearing is given in the same notice. Under the proposed sections 7 and 8, notice of the application will be given first and if there are any objections filed, or if the Director considers it necessary to hold a hearing, notice of the hearing will then be given.
6. The procedure for confirmation of the location of boundaries on consent is removed from the Act.
7. The Crown is bound by the Act.

BILL 138

1980

An Act to revise The Boundaries Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Director" means the Director of Titles appointed under *The Land Titles Act*; R.S.O. 1970, c. 234
- (b) "monument" means any device or object used to mark or witness a boundary;
- (c) "parcel" means an area of land described in an instrument by which the title to an interest in land is or was established or an area of land shown on a plan and includes a public highway or any part thereof;
- (d) "prescribed" means prescribed by the regulations made under this Act;
- (e) "surveyor" means an Ontario land surveyor authorized to practise under *The Surveyors Act*. R.S.O. 1970, c. 48, s. 1, *amended*. R.S.O. 1970, c. 452

2. The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. 1972, c. 1, s. 29. Administration

3.—(1) Where doubt exists as to the true location on the ground of any boundary of a parcel, an application, in the prescribed form, may be made to the Director to confirm the true location of the boundary on the ground. Application for confirmation of boundaries

(2) The Minister of Transportation and Communications, the council of a municipality or an authority having jurisdiction over a public highway may apply to the Director, in the prescribed form, to confirm the true location of the boundaries on the ground of a public highway under its jurisdiction. Public highways

Who may
apply

(3) An application to the Director under subsection '1 may be made by,

- (a) the owner of an interest in the parcel;
- (b) the council of the municipality in which the parcel is situate;
- (c) a Minister of the Crown;
- (d) the Surveyor General of Ontario;
- (e) the Surveyor General of Canada; or
- (f) with the consent of the owner of an interest in the parcel, a surveyor. R.S.O. 1970, c. 48, s. 4, *amended*.

Contents
of
application

4.—(1) An application under section 3 shall be accompanied by,

- (a) a copy of an up-to-date plan of survey, signed by a surveyor indicating the location on the ground of the boundary or boundaries to be confirmed;
- (b) a copy of the field notes of the survey; and
- (c) such other information or material as is prescribed.

Further
materials

(2) The Director may at any time require an applicant to furnish such additional or other information or material as he specifies. *New*.

Where
Director
may
initiate
proceedings

5.—(1) The Director, of his own initiative, may initiate proceedings under this Act and may engage a surveyor to make a survey and plan of the parcel or any boundary thereof. R.S.O. 1970, c. 48, s. 6, *amended*.

Costs

(2) Where the Director initiates proceedings under subsection 1, the costs of and incidental to the proceedings may, on an application to the Director of Land Registration, be paid out of The Land Titles Survey Fund established under subsection 1 of section 63 of *The Land Titles Act*, and subsections 3 to 5 of the said section 63 apply to an application under this subsection. *New*.

R.S.O. 1970,
c. 234

Costs of
municipality

6. Where an application under this Act has been made by or on behalf of the council of a municipality, the costs of and incidental to the application shall be borne by the municipality and, except where the purpose of the application is to confirm the location of the boundaries of a public highway, the costs may be recovered by the levy of a special rate of assessment on all parcels included in the application.

7. The Director shall cause a notice of an application under this Act to be given in such manner and to such persons as he considers proper in the circumstances and the notice shall set out the purpose of the application and the time fixed for delivering objections to the Director and, where a copy of the plan is not included with the notice, the notice shall state the place where a copy of the plan may be inspected. R.S.O. 1970, c. 48, s. 9, *amended*. Notice of application

8.—(1) Any person desiring to object to the location of the boundary or boundaries to be confirmed, as shown on the plan of survey, shall deliver to the Director, by registered mail or by personal service within the time fixed by the notice of application, a written statement setting forth the nature and grounds of the objection. R.S.O. 1970, c. 48, s. 10, *amended*. Objection

(2) Where a written statement of objection is received, the Director shall afford an opportunity for a hearing to determine the validity of the objection. Hearing

(3) Where the time specified in the notice of application has expired and no objection has been received, the Director, if he is satisfied by the application and the material filed in support thereof, may, without convening a hearing, confirm and, when the surveyor has complied with section 14, certify the location of the boundary or boundaries as shown on the plan of survey. Confirmation without hearing

(4) Where the Director is not satisfied by the application and the material filed in support thereof, he may convene a hearing and require any person he considers necessary to appear at the hearing to give evidence. Hearing where Director is not satisfied by application

(5) The applicant, any person who delivers a statement of objection under subsection 1 and such other persons as the Director may specify, are parties to the proceedings for the confirmation of the boundary or boundaries. Parties

(6) The Director shall cause a notice of hearing under this section to be given, in a manner prescribed by the regulations, to the parties and to such other persons as he may specify, setting forth the time, place and purpose of the hearing. *New*. Notice of hearing

9.—(1) Upon the hearing convened under section 8, the Director may dispose of any objection in such manner as he considers just and equitable under the circumstances and may, by order, confirm the location of the boundary or boundaries as shown on the plan of survey, or, if he thinks proper to do so, may order that the survey and plan be amended in such manner as he may direct, in which case he may confirm the location of the boundary or boundaries as shown on the plan as so amended. R.S.O. 1970, c. 48, s. 11 (1), *part*. Hearing and confirmation

Recording of evidence	(2) The oral evidence taken before the Director at a hearing shall be recorded and, at the request of a party to the hearing, a copy of the recording shall be furnished to the party upon payment of the prescribed fee. <i>New.</i>
Monuments	10. The Director may order the removal of any monument that conflicts with any boundary confirmed under this Act. R.S.O. 1970, c. 48, s. 18, <i>amended.</i>
Costs	11.— (1) An applicant under this Act is liable <i>prima facie</i> to pay all costs, charges and expenses of and incidental to the application. R.S.O. 1970, c. 48, s. 4 (2), <i>amended.</i>
Idem	(2) Upon the hearing convened under section 8, the Director may order costs to be paid by or to any person who is a party to a proceeding under this Act. R.S.O. 1970, c. 48, s. 11 (2), <i>amended.</i>
Appeal from Director's decision to Divisional Court	12.— (1) Any party aggrieved by an order of the Director made under subsection 1 of section 9 or under section 11 may appeal to the Divisional Court.
Power of court	(2) The Divisional Court, on an appeal from an order of the Director, may, <ol style="list-style-type: none"> (a) where the appeal is from an order under subsection 1 of section 9, decide the matter on the evidence before it or direct the trial of an issue or may dismiss the appeal or order that the survey and plan be amended and confirm the location of the boundary or boundaries as shown on the amended plan; and (b) where the appeal is from an order as to costs under section 11, annul or, with or without modification, confirm the order.
Notice of appeal	(3) Notice of an appeal under this section shall be filed by the appellant with the court and a copy of the notice shall be served upon the Director and the other parties to the proceedings before the Director within thirty days after the date of mailing of the order of the Director to the party appealing. R.S.O. 1970, c. 48, ss. 11 (3), 12; 1971, c. 50, s. 13 (4), <i>amended.</i>
Certificate of confirmation	13.— (1) When the period of thirty days mentioned in subsection 3 of section 12 has elapsed and no appeal has been taken or after an appeal, if taken, has been disposed of and the surveyor has complied with section 14, the Director shall certify the confirmation of the location of the boundary or boundaries as shown on the plan of survey as confirmed by the Director or the court, as the case may be.

(2) When any boundary has been certified under subsection 3 of section 8 or under subsection 1 of this section, the certificate is conclusive that the application and every notice, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act. R.S.O. 1970, c. 48, s. 13, *amended*. Effect of confirmation

14. Notwithstanding *The Surveys Act*, when the boundary or boundaries shown on the plan have been confirmed and no appeal has been taken or after an appeal, if taken, has been disposed of, the surveyor shall deposit the plan and original field notes of the survey with the Director. R.S.O. 1970, c. 48, s. 7 (3), *amended*. Deposit of plan and field notes
R.S.O. 1970, c. 453

15.—(1) The boundaries confirmed and certified by the Director and defined by the monuments shown on the plan under this Act shall, notwithstanding any other Act, be deemed to be the true boundaries of the parcel. Effect of certificate

(2) Nothing in this Act affects the establishment or re-establishment of lines under *The Surveys Act*, other than the boundaries confirmed and certified under this Act. R.S.O. 1970, c. 48, s. 14, *amended*. Saving

16.—(1) When a boundary as shown on a plan of survey has been confirmed and certified under this Act, the Director shall cause the plan or a copy thereof to be registered in the proper land registry office. Registration of plan

(2) Upon receipt of the plan or a copy for registration, the land registrar shall register it and shall record it in the title register or abstract index for each parcel that adjoins a boundary that has been confirmed. Idem

(3) A plan registered under this section supersedes all corresponding portions of all former registered plans and descriptions. R.S.O. 1970, c. 48, s. 16 (1-3), *amended*. Effect of registration

17. A plan certified under this Act may be registered under *The Land Titles Act* or *The Registry Act*, as the case may be, without any approval under *The Planning Act*. R.S.O. 1970, c. 48, s. 17, *amended*. Right to registration
R.S.O. 1970, cc. 234, 409, 349

18.—(1) Upon the filing of evidence satisfactory to the Director and upon either giving such notice to interested persons as he considers appropriate, or *ex parte*, he may order the correction of any inconsistency, error or omission in a plan that has been certified and registered under this Act or a predecessor thereof. Corrections of errors and omissions

(2) No correction pursuant to this section shall affect the location of a boundary confirmed and certified under this Act or a predecessor thereof. *New*. Proviso

Reduction
of fees

19. Where in the opinion of the Director the fees payable on an application under this Act are unduly excessive, having regard to all the circumstances, the Director may reduce the fees to such amount as he considers appropriate. R.S.O. 1970, c. 48, s. 21.

Application
to Crown

20. This Act binds the Crown. *New.*

Regulations

21. The Lieutenant Governor in Council may make regulations,

- (a) governing standards and procedures for surveys and plans made for the purposes of this Act;
 - (b) prescribing the manner of making an application for confirmation of the location of boundaries and the material to be submitted with the application;
 - (c) requiring any information in connection with any application, evidence or procedure to be verified by affidavit or declaration;
 - (d) requiring the payment of fees and prescribing the amounts thereof;
 - (e) prescribing one or more methods by which notice of a hearing under this Act may be given;
 - (f) prescribing forms and providing for their use;
 - (g) prescribing the manner of making an objection to the location of the boundary or boundaries as shown on the plan of survey and the material to be submitted with the objection;
 - (h) prescribing administrative procedures for the purposes of this Act;
 - (i) governing the manner of recording oral evidence and the manner of providing copies thereof;
 - (j) prescribing the procedures to be followed by land registrars with respect to matters under this Act;
 - (k) respecting costs and the taxation thereof; and
 - (l) governing the correction of plans under section 18.
- R.S.O. 1970, c. 48, s. 20, *amended*.

Transition

22.—(1) Notwithstanding section 23, where, prior to the coming into force of this Act, notice of an application has been

given pursuant to subsection 1 of section 9 of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, the application shall be continued as if that Act had not been repealed.

(2) Where, prior to the coming into force of this Act, the Director received an application under section 4 of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, but no notice of the application has been given under subsection 1 of section 9 of that Act, the application, upon the coming into force of this Act, shall be taken up and continued in conformity with this Act. Idem

23. The following are repealed:

Repeals

1. *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970.
2. Section 13 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
3. Section 29 of *The Government Reorganization Act, 1972*, being chapter 1.

24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

25. The short title of this Act is *The Boundaries Act, 1980*. Short title

An Act to revise
The Boundaries Act

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

(Government Bill)

BILL 138

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to revise The Boundaries Act

THE HON. FRANK DREA
Minister of Consumer and Commercial Relations

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 138

1980

An Act to revise The Boundaries Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, Interpre-
tation

- (a) "Director" means the Director of Titles appointed under *The Land Titles Act*; R.S.O. 1970,
c. 234
- (b) "monument" means any device or object used to mark or witness a boundary;
- (c) "parcel" means an area of land described in an instrument by which the title to an interest in land is or was established or an area of land shown on a plan and includes a public highway or any part thereof;
- (d) "prescribed" means prescribed by the regulations made under this Act;
- (e) "surveyor" means an Ontario land surveyor authorized to practise under *The Surveyors Act*. R.S.O. 1970,
c. 452
c. 48, s. 1, *amended*.

2. The Minister of Consumer and Commercial Relations is responsible for the administration of this Act. Adminis-
tration 1972, c. 1, s. 29.

3.—(1) Where doubt exists as to the true location on the ground of any boundary of a parcel, an application, in the prescribed form, may be made to the Director to confirm the true location of the boundary on the ground. Application
for
confirmation
of
boundaries

(2) The Minister of Transportation and Communications, the council of a municipality or an authority having jurisdiction over a public highway may apply to the Director, in the prescribed form, to confirm the true location of the boundaries on the ground of a public highway under its jurisdiction. Public
highways

Who may
apply

(3) An application to the Director under subsection 1 may be made by,

- (a) the owner of an interest in the parcel;
- (b) the council of the municipality in which the parcel is situate;
- (c) a Minister of the Crown;
- (d) the Surveyor General of Ontario;
- (e) the Surveyor General of Canada; or
- (f) with the consent of the owner of an interest in the parcel, a surveyor. R.S.O. 1970, c. 48, s. 4, *amended*.

Contents
of
application

4.—(1) An application under section 3 shall be accompanied by,

- (a) a copy of an up-to-date plan of survey, signed by a surveyor indicating the location on the ground of the boundary or boundaries to be confirmed;
- (b) a copy of the field notes of the survey; and
- (c) such other information or material as is prescribed.

Further
materials

(2) The Director may at any time require an applicant to furnish such additional or other information or material as he specifies. *New*.

Where
Director
may
initiate
proceedings

5.—(1) The Director, of his own initiative, may initiate proceedings under this Act and may engage a surveyor to make a survey and plan of the parcel or any boundary thereof. R.S.O. 1970, c. 48, s. 6, *amended*.

Costs

(2) Where the Director initiates proceedings under subsection 1, the costs of and incidental to the proceedings may, on an application to the Director of Land Registration, be paid out of The Land Titles Survey Fund established under subsection 1 of section 63 of *The Land Titles Act*, and subsections 3 to 5 of the said section 63 apply to an application under this subsection. *New*.

R.S.O. 1970,
c. 234

Costs of
municipality

6. Where an application under this Act has been made by or on behalf of the council of a municipality, the costs of and incidental to the application shall be borne by the municipality and, except where the purpose of the application is to confirm the location of the boundaries of a public highway, the costs may be recovered by the levy of a special rate of assessment on all parcels included in the application.

7. The Director shall cause a notice of an application under this Act to be given in such manner and to such persons as he considers proper in the circumstances and the notice shall set out the purpose of the application and the time fixed for delivering objections to the Director and, where a copy of the plan is not included with the notice, the notice shall state the place where a copy of the plan may be inspected. R.S.O. 1970, c. 48, s. 9, *amended*. Notice of application

8.—(1) Any person desiring to object to the location of the boundary or boundaries to be confirmed, as shown on the plan of survey, shall deliver to the Director, by registered mail or by personal service within the time fixed by the notice of application, a written statement setting forth the nature and grounds of the objection. R.S.O. 1970, c. 48, s. 10, *amended*. Objection

(2) Where a written statement of objection is received, the Director shall afford an opportunity for a hearing to determine the validity of the objection. Hearing

(3) Where the time specified in the notice of application has expired and no objection has been received, the Director, if he is satisfied by the application and the material filed in support thereof, may, without convening a hearing, confirm and, when the surveyor has complied with section 14, certify the location of the boundary or boundaries as shown on the plan of survey. Confirmation without hearing

(4) Where the Director is not satisfied by the application and the material filed in support thereof, he may convene a hearing and require any person he considers necessary to appear at the hearing to give evidence. Hearing where Director is not satisfied by application

(5) The applicant, any person who delivers a statement of objection under subsection 1 and such other persons as the Director may specify, are parties to the proceedings for the confirmation of the boundary or boundaries. Parties

(6) The Director shall cause a notice of hearing under this section to be given, in a manner prescribed by the regulations, to the parties and to such other persons as he may specify, setting forth the time, place and purpose of the hearing. *New*. Notice of hearing

9.—(1) Upon the hearing convened under section 8, the Director may dispose of any objection in such manner as he considers just and equitable under the circumstances and may, by order, confirm the location of the boundary or boundaries as shown on the plan of survey, or, if he thinks proper to do so, may order that the survey and plan be amended in such manner as he may direct, in which case he may confirm the location of the boundary or boundaries as shown on the plan as so amended. R.S.O. 1970, c. 48, s. 11 (1), *part*. Hearing and confirmation

Recording of evidence	(2) The oral evidence taken before the Director at a hearing shall be recorded and, at the request of a party to the hearing, a copy of the recording shall be furnished to the party upon payment of the prescribed fee. <i>New.</i>
Monuments	10. The Director may order the removal of any monument that conflicts with any boundary confirmed under this Act. R.S.O. 1970, c. 48, s. 18, <i>amended.</i>
Costs	11. —(1) An applicant under this Act is liable <i>prima facie</i> to pay all costs, charges and expenses of and incidental to the application. R.S.O. 1970, c. 48, s. 4 (2), <i>amended.</i>
Idem	(2) Upon the hearing convened under section 8, the Director may order costs to be paid by or to any person who is a party to a proceeding under this Act. R.S.O. 1970, c. 48, s. 11 (2), <i>amended.</i>
Appeal from Director's decision to Divisional Court	12. —(1) Any party aggrieved by an order of the Director made under subsection 1 of section 9 or under section 11 may appeal to the Divisional Court.
Power of court	(2) The Divisional Court, on an appeal from an order of the Director, may, <ul style="list-style-type: none"> (a) where the appeal is from an order under subsection 1 of section 9, decide the matter on the evidence before it or direct the trial of an issue or may dismiss the appeal or order that the survey and plan be amended and confirm the location of the boundary or boundaries as shown on the amended plan; and (b) where the appeal is from an order as to costs under section 11, annul or, with or without modification, confirm the order.
Notice of appeal	(3) Notice of an appeal under this section shall be filed by the appellant with the court and a copy of the notice shall be served upon the Director and the other parties to the proceedings before the Director within thirty days after the date of mailing of the order of the Director to the party appealing. R.S.O. 1970, c. 48, ss. 11 (3), 12; 1971, c. 50, s. 13 (4), <i>amended.</i>
Certificate of confirmation	13. —(1) When the period of thirty days mentioned in subsection 3 of section 12 has elapsed and no appeal has been taken or after an appeal, if taken, has been disposed of and the surveyor has complied with section 14, the Director shall certify the confirmation of the location of the boundary or boundaries as shown on the plan of survey as confirmed by the Director or the court, as the case may be.

(2) When any boundary has been certified under subsection 3 of section 8 or under subsection 1 of this section, the certificate is conclusive that the application and every notice, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act. R.S.O. 1970, c. 48, s. 13, *amended*. Effect of confirmation

14. Notwithstanding *The Surveys Act*, when the boundary or boundaries shown on the plan have been confirmed and no appeal has been taken or after an appeal, if taken, has been disposed of, the surveyor shall deposit the plan and original field notes of the survey with the Director. R.S.O. 1970, c. 48, s. 7 (3), *amended*. Deposit of plan and field notes
R.S.O. 1970, c. 453

15.—(1) The boundaries confirmed and certified by the Director and defined by the monuments shown on the plan under this Act shall, notwithstanding any other Act, be deemed to be the true boundaries of the parcel. Effect of certificate

(2) Nothing in this Act affects the establishment or re-establishment of lines under *The Surveys Act*, other than the boundaries confirmed and certified under this Act. R.S.O. 1970, c. 48, s. 14, *amended*. Saving

16.—(1) When a boundary as shown on a plan of survey has been confirmed and certified under this Act, the Director shall cause the plan or a copy thereof to be registered in the proper land registry office. Registration of plan

(2) Upon receipt of the plan or a copy for registration, the land registrar shall register it and shall record it in the title register or abstract index for each parcel that adjoins a boundary that has been confirmed. Idem

(3) A plan registered under this section supersedes all corresponding portions of all former registered plans and descriptions. R.S.O. 1970, c. 48, s. 16 (1-3), *amended*. Effect of registration

17. A plan certified under this Act may be registered under *The Land Titles Act* or *The Registry Act*, as the case may be, without any approval under *The Planning Act*. R.S.O. 1970, c. 48, s. 17, *amended*. Right to registration
R.S.O. 1970, cc. 234, 409, 349

18.—(1) Upon the filing of evidence satisfactory to the Director and upon either giving such notice to interested persons as he considers appropriate, or *ex parte*, he may order the correction of any inconsistency, error or omission in a plan that has been certified and registered under this Act or a predecessor thereof. Corrections of errors and omissions

(2) No correction pursuant to this section shall affect the location of a boundary confirmed and certified under this Act or a predecessor thereof. *New*. Proviso

Reduction
of fees

19. Where in the opinion of the Director the fees payable on an application under this Act are unduly excessive, having regard to all the circumstances, the Director may reduce the fees to such amount as he considers appropriate. R.S.O. 1970, c. 48, s. 21.

Application
to Crown

20. This Act binds the Crown. *New.*

Regulations

21. The Lieutenant Governor in Council may make regulations,

- (a) governing standards and procedures for surveys and plans made for the purposes of this Act;
- (b) prescribing the manner of making an application for confirmation of the location of boundaries and the material to be submitted with the application;
- (c) requiring any information in connection with any application, evidence or procedure to be verified by affidavit or declaration;
- (d) requiring the payment of fees and prescribing the amounts thereof;
- (e) prescribing one or more methods by which notice of a hearing under this Act may be given;
- (f) prescribing forms and providing for their use;
- (g) prescribing the manner of making an objection to the location of the boundary or boundaries as shown on the plan of survey and the material to be submitted with the objection;
- (h) prescribing administrative procedures for the purposes of this Act;
- (i) governing the manner of recording oral evidence and the manner of providing copies thereof;
- (j) prescribing the procedures to be followed by land registrars with respect to matters under this Act;
- (k) respecting costs and the taxation thereof; and
- (l) governing the correction of plans under section 18. R.S.O. 1970, c. 48, s. 20, *amended.*

Transition

22.—(1) Notwithstanding section 23, where, prior to the coming into force of this Act, notice of an application has been

given pursuant to subsection 1 of section 9 of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, the application shall be continued as if that Act had not been repealed.

(2) Where, prior to the coming into force of this Act, the Director received an application under section 4 of *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970, but no notice of the application has been given under subsection 1 of section 9 of that Act, the application, upon the coming into force of this Act, shall be taken up and continued in conformity with this Act. Idem

23. The following are repealed:

Repeals

1. *The Boundaries Act*, being chapter 48 of the Revised Statutes of Ontario, 1970.
2. Section 13 of *The Civil Rights Statute Law Amendment Act, 1971*, being chapter 50.
3. Section 29 of *The Government Reorganization Act, 1972*, being chapter 1.

24. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

25. The short title of this Act is *The Boundaries Act, 1980*. Short title

An Act to revise
The Boundaries Act

1st Reading

June 19th, 1980

2nd Reading

October 7th, 1980

3rd Reading

October 14th, 1980

THE HON. FRANK DREA
Minister of Consumer and
Commercial Relations

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Shoreline Property Assistance Act, 1973**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

EXPLANATORY NOTES

SECTION 1. Section 3 of the Act sets out the procedure to be followed by a property owner who wishes to borrow money from a municipality to construct works on his property to protect it against further damage by floods or the elements.

Subsection 8 stipulates that no loan for the construction of works may exceed 90 per cent of the cost of the works or the maximum amount set out in the regulations under the Act, whichever is less.

The amendment will remove the 90 per cent limit from the Act and provide that the maximum limit will be set by regulations.

SECTION 2.—Subsection 1. Section 5 of the Act sets out the procedure by which a municipality borrows money from the Treasurer of Ontario for purposes of making loans to property owners for the construction of works.

At present, subsection 5 stipulates that the debentures issued by the municipality to the Treasurer of Ontario will be for a term of 20 years. The amendment will provide that the term of the debentures will be the term set out in the regulations under the Act.

Subsection 2. At present, subsection 8 provides that where a municipality wishes to borrow money from the Treasurer of Ontario it will present to the Treasurer of Ontario a debenture issued by it for the amount to be borrowed along with an offer to sell the debenture in the prescribed form. The amendment will require the municipality to present in addition a certificate showing that the work in respect of which the money is being borrowed has been properly completed and showing the value of the work.

SECTION 3. At present, section 7 of the Act provides that the term of a loan from a municipality to a property owner for the construction of works will be 20 years. The amendment will require the term of the loan to be the same length as the term of the debenture.

BILL 139 1980

An Act to amend The Shoreline Property Assistance Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 8 of section 3 of *The Shoreline Property Assistance Act, 1973*, being chapter 22, is repealed and the following substituted therefor: s. 3 (8),
re-enacted

(8) No loan for the construction of works shall exceed the amount prescribed. Limitation
on loans

- 2.—(1) Subsection 5 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 10, section 1, is amended by striking out “a period of twenty years” in the first and second lines and inserting in lieu thereof “such period as is prescribed”. s. 5 (5),
amended

- (2) Subsection 8 of the said section 5 is repealed and the following substituted therefor: s. 5 (8),
re-enacted

(8) An application requesting the Treasurer of Ontario to purchase a debenture, which shall be by way of an offer to sell in the prescribed form, and a copy of the inspection and completion certificate mentioned in subsection 1 certified by the clerk with whom it was filed shall accompany the debenture delivered to the Treasurer of Ontario. Offer
to sell

3. Section 7 of the said Act is repealed and the following substituted therefor: s. 7,
re-enacted

7. The council shall lend the money so borrowed under the authority of section 2 in sums of \$100 or multiples thereof at a rate of interest equal to that set out in the debenture by which the funds are borrowed and the term of the loan shall be the same number of years as the term of the debenture. Terms on
which council
shall lend
money

s. 8,
re-enacted

4. Section 8 of the said Act is repealed and the following substituted therefor:

Collection
of special
rate

8.—(1) The council shall impose by by-law in the prescribed form and, subject to section 11, shall levy and collect for the term of the loan, over and above all other rates, upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge within the term of the loan the principal and interest of the money lent, and the special rates imposed shall be deemed to be taxes, and the provisions of *The Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default thereof, apply.

R.S.O. 1970,
c. 284

Registration
of by-law

(2) Where the council of a municipality passes a by-law under subsection 1 imposing special equal annual rates on land, the clerk of the municipality shall forthwith register a copy of the by-law in the proper land registry office.

Persons and
interests not
affected

(3) Notwithstanding subsection 1, where an interest is acquired by a person for valuable consideration in land that is subject to special annual rates imposed by a by-law passed under subsection 1 and where that interest is acquired subsequent to the passing of the by-law but prior to the registration of the by-law in the proper land registry office, and where the person had no actual notice of the by-law, that interest and the person in respect of that interest, so long as it continues to be held by that person, are not affected by any proceedings taken by the municipality under subsection 1 for the collection or recovery of the rates.

Liability to
Treasurer

(4) Nothing in subsection 3 relieves a municipality from its obligation to repay to the Treasurer of Ontario all moneys borrowed from the Treasurer under this Act in respect of any land together with interest thereon in accordance with the debenture issued by the municipality for the borrowing of such moneys.

s. 13,
re-enacted

5. Section 13 of the said Act is repealed and the following substituted therefor:

Loans for
building
repairs

13. Part I applies with necessary modifications to building repairs, but no loan for building repairs shall exceed the amount prescribed.

s. 14,
amended

6. Section 14 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 10, section 3, is further amended by adding thereto the following clause:

(e) prescribing the term of the debentures that may be issued under this Act.

SECTION 4. At present, section 8 requires the municipality to levy an annual rate on the land of an owner who has borrowed money from the municipality under the Act. The amount of the rate is to be such as will discharge the total loan, including interest, within 20 years. The amendment incorporated in the new subsection 1 will require the rate to be of such amount as will discharge the total loan, including interest, within the term of the loan.

Subsection 2 will require the municipality to register the by-law by which it imposes special annual rates on a property under this section. At present, there is no registering requirement.

Subsection 3 will prevent a municipality that has not registered its rating by-law from enforcing it against a person who acquires an interest for value in land that is subject to the by-law, provided that the person has no knowledge of the by-law.

Subsection 4 provides that where a municipality is prevented by subsection 3 from enforcing the collection of rates against a certain property, the municipality, nevertheless, remains liable to repay to the Treasurer of Ontario in accordance with the debentures issued therefor any moneys borrowed under the Act by the municipality from the Treasurer of Ontario in respect of that property.

SECTION 5. Section 13 of the Act makes Part I of the Act applicable to the repairing of a building or structure damaged by high water levels, or certain other specified causes. The section stipulates that no loan to a property owner may exceed 90 per cent of the cost of the repair or the maximum amount set out in the regulations under the Act, whichever is less. The amendment will provide that no such loan may exceed the maximum amount set out in the regulations.

SECTION 6. The amendment to section 14 of the Act will allow the Lieutenant Governor in Council to make regulations prescribing the term of the debentures that may be issued under the Act.

SECTION 7. Subsection 1 will validate all by-laws passed, debentures issued, loans made, and rates imposed under *The Shoreline Property Assistance Act, 1973*, to the date this Act comes into force.

Subsection 2 will exempt the lots described in the Schedule from the rates imposed upon them under *The Shoreline Property Assistance Act, 1973*, prior to the coming into force of this Act.

Subsection 3 will make it clear that the Township of Malden is not relieved from its obligation to repay to the Treasurer of Ontario all moneys borrowed by it from the Treasurer of Ontario under the Act in respect of the properties exempted by subsection 2.

SECTION 8. Section 8 will, for purposes of subsection 3 of section 8 of *The Shoreline Property Assistance Act, 1973*, deem rating by-laws passed prior to the coming into force of this Act to have been passed on the date this Act comes into force. This will ensure that if a municipality registers its outstanding rating by-laws by the day this Act comes into force, it may enforce those by-laws against property owners who acquired their property interest subsequent to the passing of the by-laws.

- 7.—(1) Every by-law heretofore passed or purporting to have been passed by the council of a municipality under subsection 1 of section 2 of *The Shoreline Property Assistance Act, 1973* is hereby declared to be and to have always been valid and binding in accordance with the provisions thereof and every debenture purchased by the Treasurer of Ontario, every loan made by the municipality to an owner of land and every special rate levied on the land of an owner under that Act pursuant to the said by-law is hereby declared to be and to have always been valid and binding on the corporation of the municipality that passed the by-law and on the owner and the land to whom or in respect of which the loan was made. By-laws, etc., declared valid 1973, c. 22
- (2) Notwithstanding subsection 1, the special rates imposed under section 8 of *The Shoreline Property Assistance Act, 1973* on the lands described in the Schedule hereto are hereby declared to be and to have always been invalid and do not constitute a charge or lien on the lands. Certain special rates invalid
- (3) Notwithstanding subsection 2, The Corporation of the Township of Malden is not relieved from its obligation to repay to the Treasurer of Ontario all moneys borrowed from the Treasurer under *The Shoreline Property Assistance Act, 1973* in respect of the lands described in the Schedule hereto, together with interest thereon, in accordance with the debenture issued by the township for the borrowing of those moneys. Township of Malden
8. Subsection 2 of section 8 of *The Shoreline Property Assistance Act, 1973*, as re-enacted by section 4 of this Act, applies to a by-law for the imposing of special annual rates passed under section 8 of *The Shoreline Property Assistance Act, 1973* prior to the coming into force of this Act but for the purpose of subsection 3 of section 8 of *The Shoreline Property Assistance Act, 1973*, as re-enacted by section 4 of this Act, the by-law shall be deemed to have been passed on the day this Act comes into force. Application
9. The said Act is amended by adding thereto the following Schedule: Schedule, enacted

SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Malden, in the County of Essex and the Province of Ontario, more particularly described as follows:

FIRSTLY, all of Lots 6 and 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1103.

SECONDLY, all of Lot 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1502.

THIRDLY, all of Lot 14 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1193.

FOURTHLY, all of Lot 20 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1038.

Commence-
ment

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

11. The short title of this Act is *The Shoreline Property Assistance Amendment Act, 1980*.

An Act to amend
The Shoreline Property Assistance
Act, 1973

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Shoreline Property Assistance Act, 1973**

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. Section 3 of the Act sets out the procedure to be followed by a property owner who wishes to borrow money from a municipality to construct works on his property to protect it against further damage by floods or the elements.

Subsection 8 stipulates that no loan for the construction of works may exceed 90 per cent of the cost of the works or the maximum amount set out in the regulations under the Act, whichever is less.

The amendment will remove the 90 per cent limit from the Act and provide that the maximum limit will be set by regulations.

SECTION 2.—Subsection 1. Section 5 of the Act sets out the procedure by which a municipality borrows money from the Treasurer of Ontario for purposes of making loans to property owners for the construction of works.

At present, subsection 5 stipulates that the debentures issued by the municipality to the Treasurer of Ontario will be for a term of 20 years. The amendment will provide that the term of the debentures will be the term set out in the regulations under the Act.

Subsection 2. At present, subsection 8 provides that where a municipality wishes to borrow money from the Treasurer of Ontario it will present to the Treasurer of Ontario a debenture issued by it for the amount to be borrowed along with an offer to sell the debenture in the prescribed form. The amendment will require the municipality to present in addition a certificate showing that the work in respect of which the money is being borrowed has been properly completed and showing the value of the work.

SECTION 3. At present, section 7 of the Act provides that the term of a loan from a municipality to a property owner for the construction of works will be 20 years. The amendment will require the term of the loan to be the same length as the term of the debenture.

BILL 139 1980

An Act to amend The Shoreline Property Assistance Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 8 of section 3 of *The Shoreline Property Assistance Act, 1973*, being chapter 22, is repealed and the following substituted therefor: s. 3 (8),
re-enacted

(8) No loan for the construction of works shall exceed the amount prescribed. Limitation
on loans

- 2.—(1) Subsection 5 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 10, section 1, is amended by striking out “a period of twenty years” in the first and second lines and inserting in lieu thereof “such period as is prescribed”. s. 5 (5),
amended

- (2) Subsection 8 of the said section 5 is repealed and the following substituted therefor: s. 5 (8),
re-enacted

(8) An application requesting the Treasurer of Ontario to purchase a debenture, which shall be by way of an offer to sell in the prescribed form, and a copy of the inspection and completion certificate mentioned in subsection 1 certified by the clerk with whom it was filed shall accompany the debenture delivered to the Treasurer of Ontario. Offer
to sell

3. Section 7 of the said Act is repealed and the following substituted therefor: s. 7,
re-enacted

7. The council shall lend the money so borrowed under the authority of section 2 in sums of \$100 or multiples thereof at a rate of interest equal to that set out in the debenture by which the funds are borrowed and the term of the loan shall be the same number of years as the term of the debenture. Terms on
which council
shall lend
money

s. 8,
re-enacted

4. Section 8 of the said Act is repealed and the following substituted therefor:

Collection
of special
rate

8.—(1) The council shall impose by by-law in the prescribed form and, subject to section 11, shall levy and collect for the term of the loan, over and above all other rates, upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge within the term of the loan the principal and interest of the money lent, and the special rates imposed shall be deemed to be taxes, and the provisions of *The Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default thereof, apply.

R.S.O. 1970,
c. 284

Registration
of by-law

(2) Where the council of a municipality passes a by-law under subsection 1 imposing special equal annual rates on land, the clerk of the municipality shall forthwith register a copy of the by-law in the proper land registry office.

s. 13,
re-enacted

5. Section 13 of the said Act is repealed and the following substituted therefor:

Loans for
building
repairs

13. Part I applies with necessary modifications to building repairs, but no loan for building repairs shall exceed the amount prescribed.

s. 14,
amended

6. Section 14 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 10, section 3, is further amended by adding thereto the following clause:

(e) prescribing the term of the debentures that may be issued under this Act.

By-laws, etc.,
declared
valid
1973, c. 22

- 7.—(1) Every by-law heretofore passed or purporting to have been passed by the council of a municipality under subsection 1 of section 2 of *The Shoreline Property Assistance Act, 1973* is hereby declared to be and to have always been valid and binding in accordance with the provisions thereof and every debenture purchased by the Treasurer of Ontario, every loan made by the municipality to an owner of land and every special rate levied on the land of an owner under that Act pursuant to the said by-law is hereby declared to be and to have always been valid and binding on the corporation of the municipality that passed the by-law and on the owner and the land to whom or in respect of which the loan was made.

Certain
special
rates
invalid
1973, c. 22

- (2) Notwithstanding subsection 1, the special rates imposed under section 8 or 13 of *The Shoreline Property Assistance Act, 1973* on the lands described in the schedule hereto are hereby declared to be and to have always been invalid and do not

SECTION 4. At present, section 8 requires the municipality to levy an annual rate on the land of an owner who has borrowed money from the municipality under the Act. The amount of the rate is to be such as will discharge the total loan, including interest, within 20 years. The amendment incorporated in the new subsection 1 will require the rate to be of such amount as will discharge the total loan, including interest, within the term of the loan.

Subsection 2 will require the municipality to register the by-law by which it imposes special annual rates on a property under this section. At present, there is no registering requirement.

SECTION 5. Section 13 of the Act makes Part I of the Act applicable to the repairing of a building or structure damaged by high water levels, or certain other specified causes. The section stipulates that no loan to a property owner may exceed 90 per cent of the cost of the repair or the maximum amount set out in the regulations under the Act, whichever is less. The amendment will provide that no such loan may exceed the maximum amount set out in the regulations.

SECTION 6. The amendment to section 14 of the Act will allow the Lieutenant Governor in Council to make regulations prescribing the term of the debentures that may be issued under the Act.

SECTION 7. Subsection 1 will validate all by-laws passed, debentures issued, loans made, and rates imposed under *The Shoreline Property Assistance Act, 1973*, to the date this Act comes into force.

Subsection 2 will exempt the lots described in the Schedule from the rates imposed upon them under *The Shoreline Property Assistance Act, 1973*, prior to the coming into force of this Act.

Subsection 3 will make it clear that the Township of Malden is not relieved from its obligation to repay to the Treasurer of Ontario all moneys borrowed by it from the Treasurer of Ontario under the Act in respect of the properties exempted by subsection 2.

constitute a charge or lien on the lands and that the moneys borrowed by the owner thereof under the provisions of the said Act are hereby deemed not to be or to have been a debt upon which special rates may have been or may be imposed, assessed or levied against such lands or any interest therein.

- (3) Notwithstanding subsection 2, The Corporation of the Township of Malden is not relieved from its obligation to repay to the Treasurer of Ontario all moneys borrowed from the Treasurer under *The Shoreline Property Assistance Act*, 1973, c. 22 in respect of the lands described in the Schedule hereto, together with interest thereon, in accordance with the debenture issued by the township for the borrowing of those moneys.

8. The said Act is amended by adding thereto the following Schedule: Schedule,
enacted

SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Malden, in the County of Essex and the Province of Ontario, more particularly described as follows:

FIRSTLY, all of Lots 6 and 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1103.

SECONDLY, all of Lot 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1502.

THIRDLY, all of Lot 14 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1193.

FOURTHLY, all of Lot 20 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1038.

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
10. The short title of this Act is *The Shoreline Property Assistance Amendment Act, 1980*. Short title

An Act to amend
The Shoreline Property Assistance
Act, 1973

1st Reading

June 19th, 1980

2nd Reading

October 28th, 1980

3rd Reading

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

*(Reprinted as amended by
the Committee of the Whole House)*

BILL 139

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Shoreline Property Assistance Act, 1973

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 139 *Shoreline Property Assistance Act* **1980**

An Act to amend The Shoreline Property Assistance Act, 1973

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Subsection 8 of section 3 of *The Shoreline Property Assistance Act, 1973*, being chapter 22, is repealed and the following substituted therefor: s. 3 (8),
re-enacted

(8) No loan for the construction of works shall exceed the amount prescribed. Limitation
on loans

- 2.—**(1) Subsection 5 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1978, chapter 10, section 1, is amended by striking out “a period of twenty years” in the first and second lines and inserting in lieu thereof “such period as is prescribed”. s. 5 (5),
amended

- (2) Subsection 8 of the said section 5 is repealed and the following substituted therefor: s. 5 (8),
re-enacted

(8) An application requesting the Treasurer of Ontario to purchase a debenture, which shall be by way of an offer to sell in the prescribed form, and a copy of the inspection and completion certificate mentioned in subsection 1 certified by the clerk with whom it was filed shall accompany the debenture delivered to the Treasurer of Ontario. Offer
to sell

- 3.** Section 7 of the said Act is repealed and the following substituted therefor: s. 7,
re-enacted

7. The council shall lend the money so borrowed under the authority of section 2 in sums of \$100 or multiples thereof at a rate of interest equal to that set out in the debenture by which the funds are borrowed and the term of the loan shall be the same number of years as the term of the debenture. Terms on
which council
shall lend
money

s. 8,
re-enacted

4. Section 8 of the said Act is repealed and the following substituted therefor:

Collection
of special
rate

8.—(1) The council shall impose by by-law in the prescribed form and, subject to section 11, shall levy and collect for the term of the loan, over and above all other rates, upon the land in respect of which the money is lent, a special equal annual rate sufficient to discharge within the term of the loan the principal and interest of the money lent, and the special rates imposed shall be deemed to be taxes, and the provisions of *The Municipal Act* as to the collection and recovery of taxes, and the proceedings that may be taken in default thereof, apply.

R.S.O. 1970,
c. 284

Registration
of by-law

(2) Where the council of a municipality passes a by-law under subsection 1 imposing special equal annual rates on land, the clerk of the municipality shall forthwith register a copy of the by-law in the proper land registry office.

s. 13,
re-enacted

5. Section 13 of the said Act is repealed and the following substituted therefor:

Loans for
building
repairs

13. Part I applies with necessary modifications to building repairs, but no loan for building repairs shall exceed the amount prescribed.

s. 14,
amended

6. Section 14 of the said Act, as amended by the Statutes of Ontario, 1978, chapter 10, section 3, is further amended by adding thereto the following clause:

(e) prescribing the term of the debentures that may be issued under this Act.

By-laws, etc.,
declared
valid
1973, c. 22

- 7.—(1) Every by-law heretofore passed or purporting to have been passed by the council of a municipality under subsection 1 of section 2 of *The Shoreline Property Assistance Act, 1973* is hereby declared to be and to have always been valid and binding in accordance with the provisions thereof and every debenture purchased by the Treasurer of Ontario, every loan made by the municipality to an owner of land and every special rate levied on the land of an owner under that Act pursuant to the said by-law is hereby declared to be and to have always been valid and binding on the corporation of the municipality that passed the by-law and on the owner and the land to whom or in respect of which the loan was made.

Certain
special
rates
invalid
1973, c. 22

- (2) Notwithstanding subsection 1, the special rates imposed under section 8 or 13 of *The Shoreline Property Assistance Act, 1973* on the lands described in the schedule hereto are hereby declared to be and to have always been invalid and do not

constitute a charge or lien on the lands and that the moneys borrowed by the owner thereof under the provisions of the said Act are hereby deemed not to be or to have been a debt upon which special rates may have been or may be imposed, assessed or levied against such lands or any interest therein.

- (3) Notwithstanding subsection 2, The Corporation of the Township of Malden is not relieved from its obligation to repay to the Treasurer of Ontario all moneys borrowed from the Treasurer under *The Shoreline Property Assistance Act*, 1973, c. 22, 1973 in respect of the lands described in the Schedule hereto, together with interest thereon, in accordance with the debenture issued by the township for the borrowing of those moneys.

8. The said Act is amended by adding thereto the following Schedule: Schedule,
enacted

SCHEDULE

ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Township of Malden, in the County of Essex and the Province of Ontario, more particularly described as follows:

FIRSTLY, all of Lots 6 and 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1103.

SECONDLY, all of Lot 7 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1502.

THIRDLY, all of Lot 14 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1193.

FOURTHLY, all of Lot 20 according to a plan registered in the Land Registry Office for the Registry Division of Essex (No. 12) as No. 1038.

9. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
10. The short title of this Act is *The Shoreline Property Assistance Amendment Act, 1980*. Short title

An Act to amend
The Shoreline Property Assistance
Act, 1973

1st Reading

June 19th, 1980

2nd Reading

October 28th, 1980

3rd Reading

November 14th, 1980

THE HON. T. L. WELLS
Minister of Intergovernmental Affairs

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to amend
The Children's Law Reform Act, 1977**

THE HON. R. MCMURTRY
Attorney General

TORONTO

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EXPLANATORY NOTE

The Bill adds Part IV to the Act. This new Part deals with custody of and access to children and guardianship of the property of children.

BILL 140

1980

An Act to amend The Children's Law Reform Act, 1977

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Children's Law Reform Act, 1977*, being chapter 41, is ^{Act,} amended, ^{amended}

(a) by renumbering sections 25 and 26 as sections 85 and 86;
and

(b) by adding thereto the following Part:

PART IV

CUSTODY, ACCESS AND GUARDIANSHIP

INTERPRETATION

25.—(1) In this Part,

Interpre-
tation

- (a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 77;
- (b) "extra-provincial order" means an order, or that part of an order of an extra-provincial tribunal that grants to a person custody of or access to a child;
- (c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child.

(2) A reference in this Part to a child is a reference to the child ^{Child} while a minor.

Purposes

26. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

CUSTODY AND ACCESS

Father and
mother
entitled to
custody

27.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights
and
respon-
sibilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child, including,

- (a) the right to care and control of the child;
- (b) the right to direct the education and moral or religious training of the child,

in the best interests of the child.

Authority
to act

(3) Where more than one person is entitled to custody of a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where
parents
separate

(4) Where the parents of a child live separate and apart and the child resides with one of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the

entitlement to access, is suspended until a separation agreement or order otherwise provides.

(5) The entitlement to access to a child includes the right to make reasonable inquiries and to be given information as to the health, education and welfare of the child. Access includes certain information

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

28. A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

29.—(1) A court shall only exercise its jurisdiction to make an order in respect of custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

- (a) with both parents;
- (b) where the parents are living separate and apart, with one parent by separation agreement with or implied consent of the other or under a court order; or
- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious
harm
to child

30. Notwithstanding any other provision of this Part, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child will suffer serious harm if,
 - (i) the child remains in the custody of the person legally entitled to custody of the child,
 - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
 - (iii) the child is removed from Ontario.

Merits of
application
for custody
or access

31.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

Best
interests
of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
 - (i) each person entitled to or claiming custody of or access to the child,
 - (ii) other members of the child's family who reside with the child, and

- (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the capacity and disposition of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of any proposed custodial home as a family unit; and
- (g) the relationship by blood between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody of or access to a child unless the conduct is relevant to the relationship between the person and the child. Past conduct

32. A court having jurisdiction under this Part in respect of custody, the incidents of custody or access may decline to exercise its jurisdiction where it is of the opinion that the matter ought to be dealt with by an extra-provincial tribunal. Declining jurisdiction

33.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. Delay

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection 1, the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. Directions

(3) Where the court fixes a date under subsection 2, the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. Early date

Effect of
divorce
proceedings
R.S.C. 1970,
c. D-8

34. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court.

CUSTODY AND ACCESS—ORDERS

Powers
of court

35. The court to which an application is made under section 28,

- (a) by order may grant the custody of or access to the child to one or more persons;
- (b) by order may determine any aspect of the incidents of the right to custody or access; and
- (c) may make such additional order as the court considers necessary and proper in the circumstances.

Order
varying
an order

36. A court shall not make an order under section 35 that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment
of needs of
child

37.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When
order
may be
made

(2) An order may be made under subsection 1 on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent
to act

(4) The court shall not appoint a person under subsection 1 unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance
for
assessment

(5) In an order under subsection 1, the court may require the parties, the child, or any of them, to attend for assessment by the person appointed by the order.

Refusal
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of the person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection 1 shall file his report with the clerk or registrar of the court. Report

(8) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child. Copies of report

(9) The report mentioned in subsection 7 is admissible in evidence in the application. Admissibility of report

(10) Any of the parties, and counsel, if any, representing the child, may require the person appointed under subsection 1 to attend as a witness at the hearing of the application. Assessor may be witness

(11) Upon motion, the court by order may give such directions in respect of the assessment as the court considers appropriate. Directions

(12) The court shall require the parties to pay the fees and expenses of the person appointed under subsection 1. Fees and expenses

(13) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay. Idem, proportions or amounts

(14) The court may relieve a party from responsibility for payment of any of the fees and expenses of the person appointed under subsection 1 where the court is satisfied that payment would cause serious financial hardship to the party. Idem, serious financial hardship

(15) The appointment of a person under subsection 1 does not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child. Other expert evidence

38.—(1) Upon an application for custody of or access to a child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order. Mediation

(2) The court shall not appoint a person under subsection 1 unless the person, Consent to act

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

Duty of
mediator

(3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.

Form of
report

(4) Before entering into mediation on the matter, the parties shall decide whether,

(a) the mediator is to file a full report on the mediation including anything that the mediator considers relevant to the matter in mediation; or

(b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.

Filing of
report

(5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection 4.

Copies of
report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.

Admissions
made in
the course
of mediation

(7) Where the parties have decided that the mediator's report is to be in the form described in clause *b* of subsection 4, evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection 1.

Fees and
expenses

(8) The court shall require the parties to pay the fees and expenses of the mediator.

Idem,
proportions
or amounts

(9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.

Idem,
serious
financial
hardship

(10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.

Official
Guardian's
report

39.—(1) Where, in a proceeding for divorce, mention is made in the petition or counter-petition of a child of the marriage under the age of eighteen years and the Official Guardian is of the opinion that an investigation and a report to the court as to the present circumstances and the proposed arrangements for the custody of, the access to and the support and education of the child ought to be made, the Official Guardian shall cause the investigation to be made and shall file the report with the court.

(2) Where the Official Guardian does not cause an investigation to be made or does not file a report under subsection 1, the court may require the Official Guardian to cause an investigation to be made and to report to the court in respect of the custody of, the access to and the support and education of the child. Idem

(3) In an application under section 28 or where custody of or access to a child is claimed in an action for annulment of a marriage, unless the court otherwise directs, the Official Guardian shall cause an investigation to be made and shall report to the court in respect of the custody of, the access to and the support and education of the child. Idem

(4) Notice of an application under section 28 shall be served on the Official Guardian. Service of application

(5) Where custody of or access to a child is claimed in an action for annulment of a marriage, the statement of claim shall be served on the Official Guardian. Service of statement of claim

(6) The Official Guardian may engage a person or body to make an investigation under this section. Agents

(7) The report of any person making the investigation, verified by the affidavit of the person, is admissible in evidence in any action, application or proceeding mentioned in this section. Admissibility of report

(8) Where the facts contained in the report are disputed, the Official Guardian or his agent shall if directed by the court, and may when not so directed, attend the trial and cause the person making the investigation to attend as a witness. Attendance at trial

(9) The person commencing any action, application or proceeding mentioned in this section shall pay such fees for and disbursements arising from an investigation in respect of the action, application or proceeding as are prescribed under *The Administration of Justice Act*. Payment of fees and disbursements
R.S.O. 1970, c. 6

(10) The Official Guardian may refuse to file his report of the investigation with the court until the fees and disbursements payable under subsection 9 have been paid, unless otherwise directed by the court. Idem

(11) The fees and disbursements of the Official Guardian payable under subsection 9 shall be deemed to be costs incurred in the action, application or proceeding for the purposes of any award as to costs by the court. Fees and disbursements deemed costs

40.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before Further evidence

making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

Cost of
obtaining
evidence

(2) A court that acts under subsection 1 may assess the cost of so acting against one or more of the parties to the application or may deal with such cost as costs in the cause.

Referral to
court

41.—(1) Where the Attorney General receives from an extra-provincial tribunal a request similar to that referred to in section 40 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court.

Obtaining
evidence

(2) A court to which a request is referred by the Attorney General under subsection 1 shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request.

CUSTODY AND ACCESS—ENFORCEMENT

Supervision
of custody
or access

42.—(1) Where an order is made for custody of or access to a child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body.

Consent
to act

(2) A court shall not direct a person, a children's aid society or other body to supervise custody or access as mentioned in subsection 1 unless the person, society or body has consented to act as supervisor.

Order
restraining
harassment

43. Upon application, a court may make an order restraining any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate.

Order where
child unlaw-
fully
withheld

44.—(1) Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing, Order to locate and take child

(a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child; or

(b) that a person who is entitled to access to a child or who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

(3) An order may be made under subsection 2 upon an application without notice where the court is satisfied that it is necessary that action be taken without delay. Application without notice

(4) The sheriff or police force directed to act by an order under subsection 2 shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order. Duty to act

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection 2, a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances. Entry and search

(6) An entry or a search referred to in subsection 5 shall be made only between sunrise and sunset unless the court, in the order, authorizes entry and search at another time. Time

45.—(1) Where there are reasonable and probable grounds for believing that a person entitled to access to a child or prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario and is not likely to return the child to Ontario, upon application by a parent or any other person entitled to custody of or access to the child, a Order where child to be removed from Ontario

court, other than a provincial court (family division), in order to secure the prompt, safe return of the child, may order the respondent to do any one or more of the following:

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee.
3. Deposit specific security with the court or with a named trustee.
4. Deliver the respondent's passport, the child's passport and any other travel documents of either or both of them that the court may specify to the court or to an individual or body specified by the court.

Idem

(2) A provincial court (family division), in the circumstances and for the purpose set out in subsection 1, may make an order referred to in paragraph 4 of subsection 1.

Terms
and
conditions

(3) In an order under paragraph 1 of subsection 1, the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate.

Safekeeping

(4) A court or an individual or body specified by the court in an order under paragraph 4 of subsection 1 or under subsection 2 shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order.

Directions

(5) In an order under subsection 1 or 2, a court may give such directions in respect of the safekeeping of the property, payments, security, passports or travel documents as the court considers appropriate.

Contempt
of orders
of provincial
court (family
division)

46.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions
of
imprisonment

(2) An order for imprisonment under subsection 1 may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

47.—(1) Where, upon application to a court, it appears to the court that, Information as to address

- (a) for the purpose of bringing an application for custody or access under this Part; or
- (b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause *b* is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause *b* is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

(2) The giving of information in accordance with an order under subsection 1 shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality. Compliance with order

(3) This section binds the Crown in right of Ontario. Section binds Crown

CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

48. Upon application, a court, Interim powers of court

- (a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario;
- (b) that has declined to exercise jurisdiction under section 32; or
- (c) that is asked to supersede an extra-provincial order in respect of custody of or access to a child and that is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario,

may do any one or more of the following:

1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.

2. Stay the application subject to,

- i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or
- ii. such other conditions as the court considers appropriate.

3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

Enforcement
of foreign
orders

49.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order if the court is satisfied,

- (a) that reasonable notice of the commencement of the proceeding in which the order was made was given to every person entitled to be a party to the proceeding;
- (b) that every person entitled to be a party to the proceeding was given an opportunity to be heard by the extra-provincial tribunal before the order was made;
- (c) that the law of the place in which the order was made required the extra-provincial tribunal to have regard for the best interests of the child;
- (d) that the order of the extra-provincial tribunal is not contrary to public policy in Ontario; and
- (e) that the jurisdiction of the extra-provincial tribunal is recognized as determined by the application of the rules in section 29, and, for the purpose, references in section 29 to "Ontario" shall be deemed to be references to the place where the extra-provincial tribunal has jurisdiction.

Effect of
recognition
of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting
orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection 1 shall recognize and enforce the order that

appears to the court to be most in accord with the best interests of the child.

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Further
orders

50. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

Superseding
order,
material
change in
circumstances

(a) the child is habitually resident in Ontario at the commencement of the application for the order; or

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,

(iii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iv) that the child has a real and substantial connection with Ontario, and

(v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

51. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child will suffer serious harm if,

Superseding
order,
serious
harm

(a) the child remains in the custody of the person legally entitled to custody of the child;

(b) the child is returned to the custody of the person entitled to custody of the child; or

(c) the child is removed from Ontario.

52. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that

True copy
of extra-
provincial
order

made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person.

GUARDIANSHIP

Appointment
of guardian

53.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian for the child.

Responsibility
of guardian

(2) A guardian for a child has charge of and is responsible for the care and management of the property of the child.

Parents as
guardians

54.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians for the child.

Parent and
other person

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian for the child.

More than
one guardian

(3) A court may appoint more than one guardian for a child.

Guardians
jointly
responsible

(4) Where more than one guardian is appointed for a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

55. In deciding an application for the appointment of a guardian for a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of
appointment

56. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment
of debt
due to
child

57.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian has been appointed for the child, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;

(b) a parent with whom the child resides; or

(c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered.

(2) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection 1 received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian for the child.

Receipt for
payment

(3) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection 1 has the responsibility of a guardian for the care and management of the money or personal property.

Responsibility
for money
or property

58. A guardian for a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship.

Accounts

59. A guardian for a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years.

Transfer of
property to
child

60. A guardian for a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child.

Management
fees and
expenses

61.—(1) A court that appoints a guardian for a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child.

Bond by
guardian

(2) Subsection 1 does not apply where the court appoints a parent of a child as guardian for the child and the court is of the opinion that it is appropriate not to require the parent to post a bond.

Where parent
appointed
guardian

62. Upon application by a married child, the court that appointed a guardian for the child or a co-ordinate court by order shall end the guardianship for the child.

Where child
marries

63.—(1) A guardian for a child may be removed by a court for the same reasons for which a trustee may be removed.

Removal of
guardian

Resignation
of guardian

(2) A guardian for a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate.

Notice to
Surrogate
Clerk for
Ontario

64. A notice of every application to a court for appointment of a guardian shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario.

DISPOSITION OF PROPERTY

Supreme
Court
order re
property
of child

65.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both,

- (a) the disposition or encumbrance of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property; or
- (c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.

Criteria

(2) An order shall be made under subsection 1 only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.

Conditions

(3) An order under subsection 1 may be made subject to such conditions as the Supreme Court considers appropriate.

Limitation

(4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.

Execution
of
documents

(5) The Supreme Court, where it makes an order under subsection 1, may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.

Directions

(6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection 1.

Validity
of
documents

(7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.

(8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause *c* of subsection 1. Liability

66.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children. Order for maintenance where power of appointment in favour of children

(2) An order may be made under subsection 1 whether or not, Idem

(a) there is a gift over in the event that there are no children to take under the power; or

(b) any person could dispose of the property in the event that there are no children to take under the power.

TESTAMENTARY CUSTODY AND GUARDIANSHIP

67.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody, appointment by will

(2) A guardian for a child may appoint by will one or more persons to be guardians for the child after the death of the appointor. Guardianship, appointment by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection 1 or 2 by a written appointment signed by the parent. Appointment by minor

(4) An appointment under subsection 1, 2 or 3 is effective only, Limitation

(a) if the appointor is the only person entitled to custody of the child or who is the guardian for the child, as the case requires, on the day immediately before the appointment is to take effect; or

(b) if the appointor and any other person entitled to custody of the child or who is the guardian for the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians for a child by appointors who die as mentioned in clause *b* of subsection 4, only the appointments of the persons appointed by both or all of the appointors are effective. Where more than one appointment

Consent of
appointee

(6) No appointment under subsection 1, 2 or 3 is effective without the consent of the person appointed.

Order by
surrogate
court

(7) Subject to subsections 4 to 6, upon application and proof of appointment a surrogate court shall make an order recognizing an appointment under subsection 1, 2 or 3.

Application
or order
under
ss. 28, 53

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 28 or 53.

Application

(9) This section applies in respect of,

(a) any will made on or after the day this section comes into force; and

(b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

PROCEDURE

Joinder of
proceedings
1978, c. 2

68.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under *The Family Law Reform Act, 1978*, or in another proceeding.

Nature
of order

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

Parties

(3) The parties to an application under this Part in respect of a child shall include,

(a) the mother and the father of the child;

(b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;

(c) a person who had the actual care and upbringing of the child immediately before the application; and

(d) any other person whose presence as a party is necessary to determine the matters in issue.

Combining
of
applications

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 33.

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

Where
identity
of father
not known

69.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

Application
or response
by minor

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.

Consent by
minor

70.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them.

Child
entitled
to be
heard

(2) The court may interview the child to determine the views and preferences of the child.

Interview
by court

(3) The interview shall be recorded.

Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview.

Counsel

71. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control.

Where child
is sixteen
or more
years old

72. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

All
proceedings
in one court

73. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing.

Closed
hearings

Consent
orders

74.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child.

Incorporation
of contract
in order
1978, c. 2

(2) Any matter provided for in this Part and in a domestic contract as defined in *The Family Law Reform Act, 1978* may be incorporated in an order made under this Part.

Part subject
to contracts

75. Where a domestic contract as defined in *The Family Law Reform Act, 1978* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of *The Family Law Reform Act, 1978*.

Jurisdiction
of
Supreme Court

76. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction.

Surrogate
court

77. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.

Order made
under
R.S.O. 1970,
c. 222

78. An application to vary an order made by a surrogate court under *The Infants Act* shall be made to a county or district court.

Place where
application
to be made

79.—(1) Subject to subsections 2 and 3, an application under this Part in a provincial court (family division) or a county or district court shall be made in the judicial district in which the child resides.

Idem,
application
for interim
order

(2) An application for an interim order shall be made to the court in which the original proceeding was taken.

Idem,
application
to vary
order

(3) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.

Interim
order

80. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.

Appeal from
provincial
court
(family
division)

81. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Order
effective
pending
appeal

82. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of
construction

83.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a

guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship for the child.

(2) Subsection 1 applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force. Application

84. This Part applies to an outstanding order for custody of or access to a child made under *The Infants Act* (repealed by section 3 of *The Children's Law Reform Amendment Act, 1980*), *The Family Law Reform Act, 1978* or *The Deserted Wives' and Children's Maintenance Act* (repealed by *The Family Law Reform Act, 1978*) as if the order were made under this Part. Application of Part to order under R.S.O. 1970, cc. 222, 128, 1978, c. 2

COMPLEMENTARY AMENDMENTS

2.—(1) Subsection 1 of section 20 of *The Family Law Reform Act, 1978*, being chapter 2, is amended by striking out “or custody” in the third line. 1978, c. 2, s. 20 (1), amended

(2) Clause *b* of subsection 1 of section 26 of the said Act is amended by striking out “custody or access” in the second line. s. 26 (1) (b), amended

(3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35, re-enacted

35. An application for custody or access under *The Children's Law Reform Act, 1977* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of actions 1977, c. 41

3.—(1) *The Infants Act*, being chapter 222 of the Revised Statutes of Ontario, 1970, is repealed. R.S.O. 1970, c. 222, repealed

(2) Paragraph 14 of the Schedule to *The Age of Majority and Accountability Act, 1971*, being chapter 98, is repealed. 1971, c. 98, Sched., par. 14, repealed

(3) Section 18 of *The Children's Law Reform Act, 1977*, being chapter 41, is repealed. 1977, c. 41, s. 18, repealed

(4) Where an application is made under *The Infants Act* or under section 35 of *The Family Law Reform Act, 1978* before subsection 1 comes into force and no evidence has been heard in the proceeding before subsection 1 comes into force, other than in respect of an interim order, the application shall be deemed to be an application under *The Children's Law Reform Act, 1977* subject to such directions as the court considers appropriate. Application of subs. 1 to proceeding already commenced 1978, c. 2 1977, c. 41

Where
proceeding
in surrogate
court

- (5) Where an application referred to in subsection 4 is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Unified Family Court, as the case may be, subject to such directions as the court considers appropriate.

R.S.O. 1970,
c. 265,
s. 6 (1-5, 7-11);
1972, c. 50,
s. 1,
repealed

- 4.—(1) Subsections 1 to 5 and 7 to 11 of section 6 of *The Matrimonial Causes Act*, being chapter 265 of the Revised Statutes of Ontario, 1970, and section 1 of *The Matrimonial Causes Amendment Act, 1972*, being chapter 50, are repealed.

s. 11,
amended

- (2) Section 11 of the said Act is amended by striking out "*Divorce Act (Ontario)* (Canada)" in the first and second lines and inserting in lieu thereof "*Annulment of Marriages Act (Ontario)* (Canada)".

1976, c. 85,
Sched.,
amended

5. The Schedule to *The Unified Family Court Act, 1976*, being chapter 85, as re-enacted by the Statutes of Ontario, 1977, chapter 4, section 6, is amended by adding thereto the following:

*"The Children's Law
Reform Act, 1977*

All"

Commence-
ment

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

7. The short title of this Act is *The Children's Law Reform Amendment Act, 1980*.

An Act to amend
The Children's Law Reform Act, 1977

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

THE HON. R. MCMURTRY
Attorney General

(Government Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Fire Marshals Act

**THE HON. R. MCMURTRY
Solicitor General**

AN ACT TO ESTABLISH A CODE GOVERNING FIRE SAFETY STANDARDS

EXPLANATORY NOTE

The Bill provides for the establishment of a code governing fire safety standards.

1001-1001

BILL 141

1980

An Act to amend The Fire Marshals Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Fire Marshals Act*, being chapter 172 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clause:

(aa) "fire code" means the regulations made under section 19a.

- 2.—(1) Subsection 2 of section 19 of the said Act is amended by inserting after "property" in the tenth line "or that a provision of the fire code is being contravened".

- (2) The said section 19 is amended by adding thereto the following subsection:

(17) *The Building Code Act, 1974* and the regulations thereunder do not apply in respect of repairs, alterations and installations carried out pursuant to an order made under this section.

3. The said Act is amended by adding thereto the following section:

19a.—(1) The Lieutenant Governor in Council may make such regulations as are considered advisable or necessary for the purpose of establishing a fire code for Ontario governing fire safety standards for buildings, other structures and premises including, but without limiting the generality of the foregoing, regulations,

(a) prescribing any method, matter or thing relating to fire prevention and fire protection;

(b) requiring and regulating fire prevention and fire protection equipment and systems;

- (c) requiring and regulating means of egress, fire separations, finish materials, furnishings and decorations, standards of housekeeping and heating, ventilation, air conditioning and incinerating equipment and systems;
- (d) controlling or prohibiting any material, substance, equipment or system affecting fire safety;
- (e) requiring and regulating procedures respecting fire safety and the keeping and furnishing of records and reports;
- (f) requiring the approval of the Fire Marshal in respect of any method, matter or thing;
- (g) requiring notice to be given to the Fire Marshal respecting any change in use or occupancy;
- (h) prescribing conditions for use, occupation or demolition;
- (i) exempting any class of building, other structure or premises from compliance with the regulations or any provision thereof, and attaching terms and conditions to such exemptions;
- (j) adopting by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard and requiring compliance with any code or standard that is so adopted;
- (k) prescribing forms and providing for their use.

Limitation
of application

(2) Any regulation made under this section may be limited in its application territorially or to any class of building, other structure or premises or to any building, other structure or premises used for any specified purpose.

Offence

(3) Every person who contravenes any provision of the fire code and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(4) Where a corporation is convicted of an offence under subsection 3, the maximum penalty that may be imposed upon the corporation is \$10,000 and not as provided therein.

s. 26 (f-h),
repealed

4. Clauses *f*, *g* and *h* of section 26 of the said Act are repealed.

Commence-
ment

5. This Act comes into force on the day it receives Royal Assent.

Short title

6. The short title of this Act is *The Fire Marshals Amendment Act, 1980*.

An Act to amend
The Fire Marshals Act

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

THE HON. R. McMURTRY
Solicitor General

(Government Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to provide for the
Designation and Retention of Foodlands**

MR. SWART

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill provides for the classification of Ontario agricultural foodlands into classifications 1 to 4 of the *Agricultural and Rural Development Act* (Canada) and for the surveying, designation and preservation of such foodlands.

BILL 142 1980

An Act to provide for the Designation and Retention of Foodlands

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "agricultural land" means any land available for any agricultural use, whether or not it is used for such purpose;
- (b) "designated municipality" means a designated municipality as defined in *The Planning Act*, or a regional municipality; R.S.O. 1970,
c. 349
- (c) "foodland" includes,
 - (i) any agricultural land included in categories one to four inclusive of the classification prepared pursuant to subsection 2 of section 3 of the *Agricultural and Rural Development Act* (ARDA) (Canada) and contained in Canada Land Inventory—soil capability for agricultural series, and R.S.C. 1970,
c. A-4
 - (ii) any special crop lands;
- (d) "Minister" means the Minister of Housing or such other member of the Executive Council to whom the administration of *The Planning Act* is assigned;
- (e) "planning area" means a planning area as defined in *The Planning Act*;
- (f) "planning authority" means a planning board established under *The Planning Act* or a regional council where no planning board exists for a regional planning area.

Duties of
planning
authority

2. Every planning authority shall, within two years following proclamation of this Act,

- (a) survey and classify all agricultural land situate within the planning area in accordance with the classifications established and defined in studies and maps prepared pursuant to the *Agricultural and Rural Development Act (ARDA)* (Canada);
- (b) prepare a plan designating as foodlands those areas which can be defined as such and recommend such plan to the council of the designated municipality for adoption;
- (c) develop planning criteria primarily designed to promote retention and protection of foodlands but which will permit non-agricultural use where justified.

R.S.C. 1970,
c. A-4

Duty of
council upon
receipt of
planning
authority
recommen-
dation

3. The council of a designated municipality shall, when it receives the recommendation from the planning authority, adopt the plan by by-law.

Where
agricultural
land not in a
planning area
or is in a
territory
without
municipal
organization

4. Where agricultural land is situate in an area that has not been defined as a planning area or is in a territory without municipal organization, the Minister shall define and name a planning area and may appoint a planning board for the planning area.

Limitation
re non-
agricultural
use

5. No agricultural land, which, prior to the completion of a planning study pursuant to section 2 is likely to be defined as foodland, may be authorized for a non-agricultural use without the specific recommendation of the planning authority.

Minister's
authority
re foodlands
programs

6. The Minister may cause to be prepared and undertaken, directly or in co-operation with any municipality, programs of research and investigation respecting the use, retention, protection and economic development of foodlands in that municipality.

Commence-
ment

7. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

8. The short title of this Act is *The Foodlands Protection Act, 1980*.

An Act to provide for the
Designation and Retention of
Foodlands

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. SWART

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Condominium Act, 1978

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to provide for a Registrar of Condominiums and to provide a procedure for resolving disputes between condominium corporations and condominium owners. The Bill repeals provisions in *The Condominium Act, 1978* establishing a condominium bureau for purposes set out in the repealed section. The Registrar is given authority to license persons to manage properties and to approve declarations. If the Registrar refuses to grant a licence or give an approval, the Bill sets out procedures for review of the Registrar's decision. The Bill also provides for the appointment of review officers to assist in the resolution of disputes between a condominium corporation and an owner or between two or more owners. The Bill sets out procedures for review of the review officer's decision.

BILL 143

1980

An Act to amend The Condominium Act, 1978

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 56 of *The Condominium Act, 1978*, being chapter 84, is ^{s. 56,} repealed and the following substituted therefor: ^{re-enacted}

56.—(1) There shall be a registrar of condominiums who shall ^{Registrar} be appointed by the Lieutenant Governor in Council.

(2) The registrar of condominiums may exercise the powers and ^{Powers} shall perform the duties conferred or imposed upon him by or under this Act.

(3) The registrar shall, ^{Duties}

(a) provide an information and advisory service to purchasers of condominium units for residential purposes and issue information pamphlets in such languages as the registrar considers necessary; and

(b) make available to the public such information in respect of declarance as is available to the registrar.

(4) No declaration shall be registered that is not approved by ^{Prohibition} the registrar.

(5) No person shall enter into an agreement to manage a prop- ^{Licence} erty unless he is the holder of a licence issued by the registrar.

(6) No person shall enter into an agreement of purchase and ^{Agreements} sale for a proposed unit for the residential premises as a vendor where the agreement provides for a deposit to be held by the vendor pending approval of the declaration by the registrar, and where such an agreement is made, it is voidable at the option of the purchaser.

Issuance
of
licences

(7) The registrar shall issue licences to manage properties and an applicant for a licence is entitled to a licence or renewal of licence except where,

- (a) having regard to his financial position the applicant cannot be reasonably expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty; or
- (d) the applicant is carrying on activities that are or will be if the applicant is licensed, in contravention of this Act or the regulations.

Approval of
declaration

(8) A proposed declarant is entitled to have his declaration approved by the registrar except where,

- (a) having regard to his financial position, the proposed declarant cannot reasonably be expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the proposed declarant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty; or
- (c) the proposed declarant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty; or

- (d) the proposed declarant is carrying on activities that are in contravention of this Act or the regulations.

(9) Subject to subsection 11, the registrar may refuse to issue a licence to an applicant or to approve a declaration where in the registrar's opinion the applicant or proposed declarant is disentitled to registration or approval under subsection 7 or 8. Refusal of licence or approval

(10) Subject to subsection 11, the registrar may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under subsection 7 if he were an applicant or where the licence is in breach of a term or condition of the licence. Idem

(11) Where the registrar proposes, Notice of proposal

(a) to refuse to approve a declaration;

(b) to refuse to grant or renew a licence; or

(c) to suspend or revoke a licence, he shall serve notice of his proposal together with written reasons therefor on the proposed declarant, applicant or licensee, as the case may be.

(12) A notice under subsection 11 shall inform the proposed declarant, applicant or licensee that he is entitled to a hearing by the tribunal if he mails or delivers, within fifteen days after the notice under subsection 11 is served on him, notice in writing requiring a hearing to the registrar and the tribunal, and he may so require such a hearing. Hearing

(13) Where a proposed declarant, applicant or licensee does not require a hearing by the tribunal in accordance with subsection 12, the registrar may carry out the proposal stated in his notice under subsection 11. Where hearing not required

(14) Where a proposed declarant, applicant or licensee requires a hearing by the tribunal in accordance with subsection 12, the tribunal shall appoint a time for and hold the hearing, and on the application of the registrar at the hearing may, by order, direct the registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the tribunal considers the registrar ought to take in accordance with this Act and the regulations, and for such purposes the tribunal may substitute its opinion for that of the registrar. Hearing

(15) The tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purpose of this Act. Terms and conditions

Parties

(16) The registrar, the proposed declarant, applicant or licensee who has required a hearing and such other persons as the tribunal may specify are parties to the proceedings before the tribunal under this section.

Continuation
of
registration

(17) Where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his registration shall be deemed to continue,

(a) until renewal is granted; or

(b) where he is served with notice that the registrar proposes to refuse to grant the renewal until the time for giving notice requiring a hearing has expired and where a hearing is required until the tribunal has made its order.

Rescission
of
agreement

(18) Where a declaration is submitted to the registrar for approval and approval is refused, every purchaser under an agreement of purchase and sale of a proposed unit for residential purposes within the property referred to in the declaration may rescind the agreement.

Notice of
purchaser's
rights

(19) Where the proposed declarant enters into an agreement of purchase and sale for a proposed unit for residential purposes, the proposed declarant shall give to the purchaser under the agreement a written notice of the purchaser's rights under subsection 5.

Disclosure
statement

(20) Every proposed declarant who intends to sell proposed units for residential purposes shall file with the registrar at the time that the declaration is submitted to the registrar for approval a disclosure statement containing the information set out in section 52 (6).

Complaints

(21) Where the registrar receives a complaint in respect of the declarant or a person licensed to manage a property and so requests in writing, the person receiving the request shall furnish the registrar with such information respecting the matter complained of as the registrar requires.

Filing of
material

(22) Every declarant shall file with the registrar the material set out in clauses *f*, *g*, *h* and *i* of section 26 (3) prior to the meeting under section 26 (1).

Inspections

(23) The registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a declarant, proposed declarant or a person licensed to manage properties to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

2. Section 57 of the said Act is repealed and the following substituted therefor: s. 57,
re-enacted

57.—(1) The Lieutenant Governor in Council shall appoint review officers who shall perform the duties and exercise the powers given to them by this Act and the regulations and the officers so appointed shall be civil servants within the meaning of *The Public Service Act*. Review
officers

R.S.O. 1970,
c. 386

(2) Where there is a dispute between a corporation and an owner or between two or more owners in respect of any matter relating to this Act, the declaration, by-laws or rules, any party to the dispute may, prior to the commencement of any court proceeding in respect of the same matter, refer the matter in dispute to the tribunal for resolution and shall notify all other parties affected. Reference
to
tribunal

(3) Within fourteen clear days after the matter has been referred to the tribunal, the tribunal shall give written notice to all parties of the date, time and place for the consideration of the matter in dispute and shall designate a review officer to hear the matter in dispute. Written
notice

(4) For the purpose of a hearing under subsection 3, the review officer may inquire into any matter relevant to the subject-matter of the dispute, whether or not previously brought to his attention by the parties. Inquiry
by review
officer

(5) Upon completing the hearing, the review officer may make an order ordering any party to the hearing to do or to refrain from doing any act that is the subject-matter of the hearing. Order
by review
officer

(6) An order under subsection 5 shall state that every party to the hearing is entitled to appeal the order to the tribunal and shall specify the place where the appeal may be filed. Appeal to
tribunal

(7) On the request of any party to the hearing, the review officer shall file a copy of any order made by him under subsection 5 in the office of the registrar of the Supreme Court under section 19 of *The Statutory Powers Procedure Act, 1971*, that applies thereto. Filing
copy of
order
1971, c. 47

(8) Except as provided in subsection 7, *The Statutory Powers Procedure Act, 1971*, does not apply to proceedings before the review officer. Application
of
1971, c. 47

(9) Every party to a hearing may appeal a review officer's order by filing a notice of appeal with the tribunal within twenty-one days after being served with notice of the review officer's order. Notice of
appeal

(10) On an appeal, the tribunal may proceed by way of a hearing *de novo* and, after the hearing, the tribunal may make any Powers of
tribunal

order it considers just and equitable and for such purposes the tribunal shall substitute its order for that of the review officer.

Advisory
committee

(11) The registrar may appoint a provincial advisory committee to advise him in matters relating to condominiums.

Membership
of
committee

(12) The provincial advisory committee shall consist of seven members made up of not fewer than four members who represent owners of units for residential purposes.

Terms of
office

(13) The members of the provincial advisory committee shall be appointed for terms of one, two or three years and, having served a term, shall not be reappointed for at least two years.

Vacancy

(14) When a vacancy occurs on the provincial advisory committee during a term of office, the registrar may fill the vacancy for the unexpired portion of the term.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is *The Condominium Amendment Act, 1980*.

An Act to amend
The Condominium Act, 1978

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Municipal Act

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to place a municipality under a duty to negotiate with a condominium corporation, at the request of the condominium corporation, for the purpose of concluding an agreement concerning the maintenance and repair of roads on the condominium property, and snow removal, and other matters referred to in paragraph 62a of subsection 1 of section 354 of the Act.

BILL 144

1980

An Act to amend The Municipal Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 62a of subsection 1 of section 354 of *The Municipal Act*, s. 354 (1),
being chapter 284 of the Revised Statutes of Ontario, 1970, as par. 62a,
enacted by the Statutes of Ontario, 1978, chapter 101, section 4, is amended by adding thereto the following clause:

 - (b) Upon the request of a condominium corporation, a municipality shall negotiate with the condominium corporation for the purpose of concluding an agreement referred to in this paragraph.
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Municipal Amendment Act, 1980*. Short title

An Act to amend The Municipal Act

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act to ensure the Regeneration and Reforestation
of Forests in Ontario**

MR. FOULDS

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The purpose of the Bill is to require the Ministry of Natural Resources to prepare a forest resource analysis and forest resource program at regular intervals to assist in ensuring the wise management of forest resources in Ontario.

BILL 145 **1980**

**An Act to ensure the Regeneration and
Reforestation of Forests in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Minister" means the Minister of Natural Resources;
- (b) "Ministry" means the Ministry of Natural Resources.

2.—(1) Not later than the 31st day of October, 1980, the Minister shall prepare and submit to the Lieutenant Governor in Council a forest resource analysis containing,

Forest
resource
analysis

- (a) a description of the inventory of the forest resources in Ontario;
- (b) a description of the location and extent of areas of forest land in Ontario that,
 - (i) have been denuded of timber through harvesting or otherwise and have not been restocked with commercially valuable species of timber, or
 - (ii) are producing timber at a rate that is substantially lower than their potential;
- (c) a description of the programs of the Ministry respecting public and private forest management, protection, conservation, investment and research;
- (d) an analysis of trends in and a forecast of,
 - (i) domestic and international demand for and uses of the forest resources in Ontario and products manufactured therefrom, and

(ii) the supply of the forest resources in Ontario and products manufactured therefrom in relation to the supply from areas outside Ontario; and

(e) a summary of developments in and questions of public policy that are expected to influence significantly and to affect the use, ownership, licensing and management of forest resources.

Subsequent
analyses

(2) An analysis referred to in subsection 1 shall be prepared and submitted to the Lieutenant Governor in Council at least once in every ten year period following the date that the initial analysis is prepared and submitted.

Forest
resource
program

3.—(1) Not later than the 31st day of October, 1980, the Minister shall prepare and submit to the Lieutenant Governor in Council a forest resource program containing,

(a) a presentation of the alternatives available for re-stocking forest land, for increasing the productivity of forest land, and for otherwise improving forest resources in Ontario, identifying,

(i) the estimated capital and current expenditures associated with each alternative,

(ii) the estimated effect of each alternative on the productivity of the resources,

(iii) the estimated direct and indirect economic and social benefits and costs associated with each alternative, and

(iv) an assessment of the priorities that should be given to each alternative; and

(b) a program recommended to be implemented by the Ministry during the five year period beginning on the 1st day of April, 1981, for re-stocking forest land, for increasing the productivity of forest land, and for otherwise improving forest resources in Ontario, including,

(i) a schedule for implementing the program,

(ii) the method to be used and priorities adopted for implementing the program, and

(iii) the respective roles to be played by the Crown and the private sector in implementing the program.

(2) A program referred to in subsection 1 shall be prepared and submitted to the Lieutenant Governor in Council at least once in every five year period following the date that the initial program is prepared and submitted. Subsequent programs

4. When the Minister submits a forest resource analysis and forest resource program to the Lieutenant Governor in Council, the Minister shall lay a copy of the analysis or program before the Assembly if it is in session or, if not, at the commencement of the next ensuing session. Tabling in Assembly

5.—(1) The Minister shall submit to the Lieutenant Governor in Council an annual report concerning the work performed by the Ministry in respect of the forest resource analysis and forest resource program referred to in sections 2 and 3 and the Minister shall then lay a copy of the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session. Annual report

(2) The annual report shall include, Idem

- (a) a review of the forest resource program then in effect, a statement of the expenditures incurred to implement it, an assessment of the effect it has had on the productivity of forest resources in the Province and an analysis of the direct and indirect economic and social benefits and costs associated with its implementation; and
- (b) a summary of forest land in the Province, showing areas denuded of forest during the year, areas re-stocked during the year and areas the productivity of which has been improved during the year.

6. This Act comes into force on the day it receives Royal Assent. Commencement

7. The short title of this Act is *The Forest Resource Management Act, 1980*. Short title

An Act to ensure the Regeneration and
Reforestation of Forests in Ontario

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Residential Tenancies Act, 1979

MR. PHILIP

EXPLANATORY NOTE

The purpose of the Bill is to require that the Appeal Commissioners under *The Residential Tenancies Act, 1979* consist of an equal number of representatives of landlords and tenants.

BILL 146

1980

An Act to amend The Residential Tenancies Act, 1979

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 76 of *The Residential Tenancies Act, 1979*, being chapter s. 76,
78, is repealed and the following substituted therefor: re-enacted

76.—(1) The Lieutenant Governor in Council shall appoint as Appeal
Appeal Commissioners a chairman, one or more vice-chairmen Commis-
and as many other persons equal in number representative of sioners
landlords and tenants as the Lieutenant Governor in Council
considers appropriate.

(2) The chairman or a vice-chairman, one member representa- Quorum
tive of landlords and one member representative of tenants con-
stitute a quorum of the Appeal Commissioners.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Residential Tenancies Amendment* Short title
Act, 1980.

An Act to amend
The Residential Tenancies Act, 1979

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. PHILIP

(Private Members' Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Residential Tenancies Act, 1979

MR. PHILIP

EXPLANATORY NOTES

The purpose of the Bill is to make several amendments to Part IX of the Act governing the procedure of the Residential Tenancy Commission.

SECTION 1. Section 1 of the Bill contains an amendment to the Act that requires the Commission, when determining the real merits and justice of the case before it, to have regard to the interests of the tenants residing in residential premises that are maintained in good repair and fit for habitation.

SECTION 2. Clause *a* of subsection 3 of section 103 of the Act states that a Commissioner is not disqualified from holding a hearing and determining a matter by reason only of the fact that the Commissioner attempted to assist the parties to the proceeding in settling the matter by agreement. This provision is repealed.

SECTION 3. The proposed subsection 2 of section 108 of the Act requires the Commission to give two days notice to the parties before conducting an inspection under section 108 and to give the parties the opportunity to attend on the inspection.

BILL 147

1980

An Act to amend The Residential Tenancies Act, 1979

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 of section 93 of *The Residential Tenancies Act, 1979*, being chapter 78, is repealed and the following substituted therefor: s. 93 (2),
re-enacted

(2) In determining the real merits and justice of the case, the Commission shall ascertain the real substance of all transactions and activities relating to the residential complex and the good faith of the participants and, in doing so, Commission
to ascertain
substance of
transactions
and activities,
etc.

- (a) may disregard the outward form of the transactions or the separate corporate existence of the participants; and
- (b) may have regard to the pattern of activities relating to the residential complex; and
- (c) shall have regard to the interests of the tenants residing in residential premises that are maintained in good repair and fit for habitation and in compliance with the by-laws of the municipality in which the premises are situated.

2. Clause *a* of subsection 3 of section 103 of the said Act is repealed. s. 103 (3) (a),
repealed

3. Section 108 of the said Act is amended by adding thereto the following subsection: s. 108,
amended

(2) Where the Commission proposes to conduct an inspection, the Commission shall notify the parties to the hearing at least two days before the inspection is to take place and shall give the parties the opportunity to attend on the inspection. Notice of
inspection

4. This Act comes into force on the day it receives Royal Assent. Commence-
ment

5. The short title of this Act is *The Residential Tenancies Amendment Act, 1980*. Short title

An Act to amend
The Residential Tenancies Act, 1979

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. PHILIP

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Juries Act, 1974

MR. MCGUIGAN

EXPLANATORY NOTE

The purpose of the Bill is to remove the prohibition against blind persons serving as jurors under *The Juries Act, 1974*.

BILL 148

1980

An Act to amend The Juries Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 4 of *The Juries Act, 1974*, being chapter 63, is repealed and the following substituted therefor: s. 4 (a).
re-enacted

(a) is infirm or has a physical infirmity incompatible with the discharge of the duties of a juror, but blindness shall not be considered to be an infirmity incompatible with the discharge of the duties of a juror.

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Juries Amendment Act, 1980*. Short title

An Act to amend The Juries Act, 1974

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. MCGUIGAN

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Health Disciplines Act, 1974

MR. MCGUIGAN

EXPLANATORY NOTE

The purpose of the Bill is to constitute podiatrists as a self-governing profession under *The Health Disciplines Act, 1974*.

BILL 149

1980

An Act to amend The Health Disciplines Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Health Disciplines Act, 1974*, being chapter 47, is amended by adding thereto the following Part:

PART VII

PODIATRY

168a.—(1) In this Part,

Interpre-
tation

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Podiatry of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of podiatry issued under this Part;
- (e) “member” means member of the College;
- (f) “podiatrist” means a person who is licensed under this Part to engage in the practice of podiatry;
- (g) “practice of podiatry” means the diagnosis and treatment by medical, surgical, physical and mechanical means of ailments, diseases, defects, deformities and manifestations of systemic and non-systemic diseases affecting the human foot;
- (h) “Registrar” means the Registrar of the College.

- (2) The practice of podiatry is a health discipline to which this Part applies.

College of
Podiatry of
Ontario

168*b*.—(1) The College of Podiatry of Ontario is a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

(2) The objects of the College are,

- (a) to regulate the practice of podiatry and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of podiatry;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act,

in order that the public interest may be served and protected.

Membership

168*c*.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject.

Resignation

(2) A member may resign his membership by filing with the Registrar his resignation in writing and his licence is thereupon cancelled subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct while a member.

Cancellation
for default
of fees

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least sixty days notice of the default and intention to cancel subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of his professional conduct as a member.

Council of
the College

168*d*.—(1) The Council of the College shall be the governing body and board of directors of the College and shall manage and administer its affairs.

Composition
of Council

(2) The Council shall be composed of,

- (a) not fewer than two and not more than four persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a

health practice, and are appointed by the Lieutenant Governor in Council; and

- (b) not fewer than ten and not more than twelve persons who are members and are elected by the members in the manner provided by the regulations.

(3) The appointment of every person appointed under subsection 2 expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

(4) Every member who is, Qualifications to vote

- (a) resident in Ontario;

- (b) licensed to practise podiatry in Ontario; and

- (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

(5) The Council shall elect annually a President and Vice-President from among its members. President, Vice-President

(6) The Council shall appoint at its pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College. Registrar

(7) A majority of the members of the Council constitutes a quorum. Quorum

(8) The four members of the Board of Regents who were appointed under *The Chiropody Act*, being chapter 70 of the Revised Statutes of Ontario, 1970 who were in office immediately before this Part comes into force and who were registered as practitioners under that Act shall be deemed to be four of the members referred to in clause *b* of subsection 2, until the election of members to Council held next after this Part comes into force. Continuation

(9) The Lieutenant-Governor in Council shall appoint to the Council not less than six and not more than eight persons who are nominated by the Ontario Podiatry Association and who, immediately before this Part comes into effect, were registered as practitioners under *The Chiropody Act* hereinbefore mentioned, which persons shall be deemed to be members referred to in clause *b* of subsection 2, until the election of members to Council held next after this Part comes into force. Idem

168e. In addition to his powers and duties under Part I, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

168f. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;
- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) providing for the maintenance and inspection of registers of persons permitted to practise;
- (f) governing standards of practice for the profession;
- (g) defining classes of specialists in the various branches of podiatry, prescribing the qualifications required, providing for the suspension or revocation of any such designation, and for the regulation and prohibition of the use of terms, titles or designations by members indicating specialization in any branch of podiatry;
- (h) regulating the compounding, dispensing and sale of drugs by members and the containers and labelling therefor, prescribing the records that shall be kept and requiring reports to the Minister respecting such compounding, dispensing and sale;

- (i) prohibiting the practice of podiatry where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (j) defining professional misconduct for the purposes of this Part;
- (k) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (l) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (m) governing the use of x-rays by a member in the practice of podiatry;
- (n) respecting the reporting and publication of decisions in disciplinary matters;
- (o) requiring and providing for the inspection and examination of books, accounts, reports and podiatric records of members in connection with their practice;
- (p) respecting the duties and authority of the Registrar;
- (q) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (r) prescribing forms and providing for their use;
- (s) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

168g.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing, By-laws

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;

- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safekeeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remit-

tance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;

- (q) providing for the appointment of inspectors for the purposes of this Part;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;
- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

(2) A copy of the by-laws made under subsection 1 and amendments thereto, Idem

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose. Idem

168*h*.—(1) No person shall engage in or hold himself out as engaging in the practice of podiatry unless he is licensed under this Part. Licence to act as podiatrist

(2) For the purposes of subsection 1, Exceptions

- (a) rendering first aid or temporary assistance in an emergency without fee; or
- (b) the administration of household remedies by members of the patient's household,

shall be deemed not to be engaging in the practice of podiatry.

(3) Notwithstanding subsection 1, a student of podiatry may engage in the practice of podiatry within a prescribed training program under the supervision of a member. Students excepted

Proof of
practice

(4) For the purposes of this section, proof of the performance of one act in the practice of podiatry on one occasion is sufficient to establish engaging in the practice of podiatry.

Conflict
with other
health
discipline

(5) A member or person authorized by the regulations may engage in the practice of podiatry notwithstanding that any part of such practice is included in the practice of any other health discipline.

Application
of
Part VI

(6) Part VI does not apply in respect of the compounding and dispensing and sale of drugs by a member for his own patients in accordance with this Part and the regulations.

Practice of
medicine

(7) Nothing done in the practice of medicine by a person licensed under this Act to practise medicine shall be deemed to be a contravention of this section.

Faith
healing

(8) Nothing in this Part shall be construed to affect the treatment of human ailments by the use of prayer or spiritual means in the exercise of a religion in accordance with the tenets of an established church by the members thereof.

Establishment
of committees

168*i*. The Council shall establish and appoint as hereinafter provided the following committees;

- (a) Executive Committee;
- (b) Registration Committee;
- (c) Complaints Committee;
- (d) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Executive
Committee

168*j*.—(1) The Executive Committee shall be composed of,

- (a) the President, who shall be chairman of the Committee;
- (b) the Vice-President; and
- (c) three persons who are members of the Council, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum

(2) A majority of the members of the Executive Committee constitutes a quorum.

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. Duties

168*k*.—(1) The Registration Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council. Registration Committee

(2) The Council shall name one member of the Registration Committee to be chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

168*l*.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he proposes to refuse or to which he considers terms, conditions or limitations should be attached. Licence and registrations

(2) The Council shall obtain the approval of a board of legally qualified medical practitioners in the setting and supervision of examinations referred to in subsection 1 and the examinations shall be of a standard equivalent to the standard that is required of a legally qualified medical practitioner to qualify to practise in the same area of care. Examinations

(3) The Registration Committee, Powers and duties of Registration Committee

(a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

(b) may exempt an applicant from any licensing requirement.

(4) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies. Conditions of licence

(5) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on his licence pending the demonstration of such standard of competence through the completion of such experience, Review of qualifications

courses of study or continuing education as the Committee specifies.

Register

(6) The Registrar shall maintain one or more registers in which is entered the name of every person who is licensed to practise podiatry, identifying any specialist status and the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence or recognition of specialist status and such other information as the Registration Committee or Discipline Committee directs.

Continuation

(7) Every licence issued under *The Chiropractic Act*, being chapter 70 of the Revised Statutes of Ontario, 1970, and in effect immediately before this Part comes into force continues in the same manner as if issued under this Part.

Complaints
Committee

168m.—(1) The Complaints Committee shall be composed of three persons who are members of the Council, one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council.

Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

Chairman

(3) The Council shall name one member of the Complaints Committee to be chairman.

Quorum

(4) A majority of the members of the Complaints Committee constitutes a quorum.

Duties

168n.—(1) The Complaints Committee shall consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, but no action shall be taken by the Committee under subsection 2 unless,

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit any explanations or representations he may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Committee in accordance with the information it receives may,

- (a) direct that the matter be referred, in whole or in part, to the Discipline Committee or to the Executive Committee for the purposes of section 168q; or

- (b) direct that the matter not be referred under clause *a*; or
- (c) take such action as it considers appropriate in the circumstances and that is not inconsistent with this Part or the regulations or by-laws.

(3) The Committee shall give its decision in writing to the Registrar for the purposes of section 8 and, where the decision is made under clause *b* of subsection 2, its reasons therefor. Decisions and reasons

168o.—(1) The Discipline Committee shall be composed of five members of the Council of whom two shall be persons appointed to the Council by the Lieutenant Governor in Council. Discipline Committee

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman. Chairman

(3) The Chairman of the Discipline Committee may assign a panel of three members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council. Panel

(4) Three members of a panel assigned under subsection 3, of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing. Quorum

(5) Where a panel of the Discipline Committee commences a hearing and the member thereof who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding his absence. Disability of lay member

(6) Notwithstanding section 168n, the Council or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any specified allegation of professional misconduct or incompetence on the part of a member. Reference

168p.—(1) The Discipline Committee shall, Duties

- (a) when so directed by the Council, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against any member;
- (b) hear and determine matters referred to it under sections 168n and 168o; and
- (c) perform such other duties as are assigned to it by the Council.

Idem

(2) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional misconduct

(3) A member may be found guilty of professional misconduct by the Committee if,

- (a) he has been found guilty of an offence relevant to his suitability to practise upon proof of such conviction; or
- (b) he has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(4) The Discipline Committee may find a member to be incompetent if in its opinion he has displayed in his professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates he is unfit to continue in practice.

Powers of Discipline Committee

(5) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member, or withdraw recognition of his specialist status, or both;
- (b) suspend the licence of the member or recognition of his specialist status, or both, for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;

(e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;

(f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(6) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his costs or such portion thereof as the Discipline Committee fixes. Costs

(7) Where the Discipline Committee revokes, suspends or restricts a licence or recognition of specialist status on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(8) Where the Discipline Committee revokes, suspends or restricts the licence or recognition of specialist status of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(9) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision

(10) Where a proceeding is commenced before the Discipline Committee and the term of office of the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his term of office had not expired or been terminated. Continuation on expiry of committee membership

168q.—(1) In this section,

Interpretation

(a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection 2;

(b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of

the public or the member that he no longer be permitted to practise or that his practice be restricted.

Reference to
board of
inquiry

(2) Where the Registrar receives information leading him to believe that a member may be an incapacitated member, he shall make such inquiry as he considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination the board may order that his licence be suspended until he complies.

Hearing

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection 3 to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Registration Committee to hold a hearing and may suspend the member's licence until the determination of the question of his capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Registration Committee are parties to a proceeding under this section.

Medical
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment and such report shall be signed by him and served upon the other parties to the proceeding,

(a) where the evidence is required by the College, at least five days before the hearing commences; and

(b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Registration Committee shall, after the hearing,

Powers of
Registration
Committee

(a) make a finding as to whether or not the member is an incapacitated member; and

(b) where the member is found to be an incapacitated member by order,

(i) revoke his licence,

(ii) suspend his licence for such period as the Committee considers appropriate, or

(iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply, with necessary modifications, to proceedings of the Registration Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

168r.—(1) A person whose licence has been revoked or suspended for cause under this Part, or a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for more than one year, one year after the suspension.

Restoration
of licence

(2) The Registrar shall refer the application to the Discipline Committee or, where the revocation or suspension was on the grounds of incapacity, to the Registration Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Reference

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 9 of section 11, apply, with necessary modifications, to proceedings of the Registration Committee and Discipline Committee under this Section.

Procedures

(4) Notwithstanding subsections 1, 2 and 3, the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms,

Direction by
Council to
issue licence

conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investigation
of members

168s.—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of his investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his appointment, enter at any reasonable time the business premises of such person and examine books, records, documents and things relevant to the subject-matter of the investigation and, for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to such inquiry as if it were an inquiry under that Act.

1971, c. 49

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a provincial judge is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the provincial judge may, whether or not an inspection has been made or attempted under subsection 2, issue an order authorizing the person making the investigation, together with such police officer or officers as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them but every such entry and search shall be made between sunrise and sunset unless the provincial judge, by the order, authorizes the person making the investigation to make the search at night.

Removal of
books, etc.

(5) Any persons making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection 2 or 4 relating to the member whose practice is being investigated and to the sub-

ject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

(6) Any copy made as provided in subsection 5 and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admissibility
of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he considers appropriate.

Report of
Registrar

168t.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 168s, and any member of the Council or a committee, shall preserve secrecy with respect to all matters that come to his knowledge in the course of his duties, employment, inquiry or investigation under section 168s and shall not communicate any such matters to any other person except,

Matters
confidential

(a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

(b) as may be required for the enforcement of *The Health Insurance Act, 1972*; ^{1972, c. 91}

(c) to his counsel; or

(d) with the consent of the person to whom the information relates.

(2) No person to whom subsection 1 applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Testimony in
civil suit

168u.—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing such person to comply with such provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Restraining
order

Appeal	(2) An appeal lies to the Supreme Court from an order made under subsection 1.
Offence	168v.—(1) Every person who is in contravention of section 168h is guilty of an offence and on summary conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.
Idem	(2) Subject to the provisions of Parts II, III and V, any person not licensed under this Part who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is licensed or registered under this Part or that he is recognized by law or otherwise as a podiatrist, or who assumes, uses or employs the description or title “podiatrist”, “doctor of podiatry”, “doctor of podiatric medicine”, “doctor”, “surgeon” or “physician” or any affix or prefix indicative of such titles or qualifications as an occupational designation relating to the treatment of ailments or physical defects of the human foot or advertises or holds himself out as such, is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.
Idem	(3) Any person who obstructs a person appointed to make an investigation under section 168s in the course of his duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.
Repeal	168w.—(1) <i>The Chiropody Act</i> , being chapter 70 of the Revised Statutes of Ontario, 1970, is repealed.
References	(2) Any reference in any Act or regulation to <i>The Chiropody Act</i> , shall be deemed to be a reference to this Part.
Commence- ment	2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
Short title	3. The short title of this Act is <i>The Health Disciplines Amendment Act, 1980</i> .

An Act to amend
The Health Disciplines Act, 1974

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. MCGUIGAN

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Road Access Act, 1978

MR. FOULDS

EXPLANATORY NOTE

The purpose of the Bill is to clarify that *The Road Access Act, 1978* applies to public and private forest roads. The Bill amends the definition of "access road" in the Act. This definition, as it now reads, is set out below:

1. In this Act,

- (a) "access road" means a road located on land not owned by a municipality and not dedicated and accepted as, or otherwise deemed at law to be, a public highway, that serves as a motor vehicle access route to one or more parcels of land.

BILL 150

1980

An Act to amend The Road Access Act, 1978

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause *a* of section 1 of *The Road Access Act, 1978*, being chapter 61, is amended by adding at the end thereof "and includes a public forest road or a private forest road within the meaning of Part II of *The Public Lands Act*". s. 1 (a),
amended
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Road Access Amendment Act, 1980*. Short title

An Act to amend
The Road Access Act, 1978

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Ontario Housing Corporation Act

MR. WARNER

EXPLANATORY NOTE

The purpose of the Bill is to clarify the authority of the Ontario Housing Corporation to fix rents for units in residential complexes owned or operated by the Corporation.

BILL 151

1980

An Act to amend The Ontario Housing Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Ontario Housing Corporation Act*, being chapter 317 of the Revised Statutes of Ontario, 1970 is amended by adding thereto the following section: s. 8a,
enacted

8a.—(1) The Corporation may fix the rent for a unit in a residential complex owned or operated by the Corporation, but the rent shall not exceed 25 per cent of the total net monthly income of the tenant or tenants of the unit. Authority
to fix
rent

(2) For the purposes of subsection 1, “net monthly income” means the average monthly income of a tenant during the previous year less the amount of the tenant’s average monthly contributions to the Canada Pension Plan, the unemployment insurance program and payments of income tax during that year. Idem

2. This Act comes into force on the day it receives Royal Assent. Commence-
ment
3. The short title of this Act is *The Ontario Housing Corporation Amendment Act, 1980*. Short title

An Act to amend
The Ontario Housing Corporation Act

1st Reading

June 19th, 1980

2nd Reading

3rd Reading

MR. WARNER

(Private Member's Bill)

**4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980**

An Act to amend The Beef Cattle Marketing Act

**THE HON. L. C. HENDERSON
Minister of Agriculture and Food**

TORONTO

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EXPLANATORY NOTE

The general purpose of the Bill is to amend *The Beef Cattle Marketing Act*,

1. To add definitions for "Board" and "Commissioner" (section 1 of the Bill). The definitions are complementary to new sections of the Act set out in section 3 of the Bill.
2. To change the method of calculating licence fees from an amount per head of cattle to a percentage of the sale price, not to exceed two-tenths of 1 per cent (section 2 of the Bill).
3. To require the Live Stock Commissioner to prepare a list of plants approved for purchase of cattle on a carcass weight basis and to prohibit the purchase of animals for slaughter on a carcass weight basis where the plant is not included on the list (new section 9a of the Act, set out in section 3 of the Bill).
4. To provide one fine (no minimum and \$1,000 maximum) for a contravention of the Act or the regulations. Present fines are, for a first offence, \$25 minimum and \$100 maximum, and for subsequent offences, \$100 minimum and \$500 maximum, except for obstruction of an inspector, where the fine is \$200 minimum and \$1,000 maximum (section 4 of the Bill).

Provision is made for hearings by the Commissioner respecting the preparation, amendment or revision of the list of approved plants (new sections 9b and 9c of the Act, set out in section 3 of the Bill).

Provision is also made for appeals from decisions respecting the preparation, amendment or revision of the list of approved plants (new sections 9d, 9e, 9f and 9g of the Act, set out in section 3 of the Bill).

BILL 152

1980

An Act to amend The Beef Cattle Marketing Act

HER, MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Beef Cattle Marketing Act*, being chapter 42 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses: s. 1,
amended

(aa) "Board" means the Agricultural Licensing and Registration Review Board established under *The Ministry of Agriculture and Food Act*; R.S.O. 1970,
c. 109

(cc) "Commissioner" means the Live Stock Commissioner.

- 2.—(1) Clause *b* of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 43, section 1 and amended by the Statutes of Ontario, 1978, chapter 87, section 3, is repealed and the following substituted therefor: s. 5 (1) (b),
amended

(b) fixing the amount of licence fees up to but not exceeding two-tenths of 1 per cent of the sale price for each head of cattle.

- (2) Subsection 4 of the said section 5, as enacted by the Statutes of Ontario, 1974, chapter 43, section 1, is repealed. s. 5 (4),
repealed

3. The said Act is amended by adding thereto the following sections: ss. 9a-9g,
enacted

9a.—(1) Subject to section 9b, the Commissioner shall prepare a list of plants that, in his opinion, comply with the provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis, and may amend or revise the list from time to time. Preparation
of list

Application
for listing

(2) Where the operator of a plant wishes to have his plant included on the list referred to in subsection 1, he shall apply therefor to the Commissioner in writing.

List may be
inspected

(3) The Commissioner shall maintain a copy of the list referred to in subsection 1, as amended or revised, at his office at all times and shall permit inspection thereof by the public during normal business hours.

Furnishing
and
publishing
list

(4) The Commissioner may,

- (a) send a copy of the list referred to in subsection 1 and any amendment or revision thereof to any person in Ontario who makes a request therefor; and
- (b) publish the list referred to in subsection 1 and any amendment or revision thereof in such manner as he considers advisable.

Purchase
of cattle

(5) No operator of a plant that is not included on the list referred to in subsection 1 shall purchase cattle for slaughter at his plant for a price calculated on a carcass weight basis.

Hearing
required

9b.—(1) A decision by the Commissioner not to include a plant on the list referred to in section 9a or to remove a plant from the list shall be made only after a hearing by the Commissioner.

Notice of
hearing

(2) Notice of a hearing by the Commissioner under subsection 1 shall afford to the operator of the plant a reasonable opportunity to show or achieve compliance before the hearing with the provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis.

Examination of
documentary
evidence

(3) The operator of a plant who is a party to the the proceedings in which the Commissioner holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Removal
of plant
from list

(4) Notwithstanding subsections 1, 2 and 3, the Commissioner may remove a plant from the list referred to in section 9a without a hearing where,

- (a) in the opinion of the Commissioner, it is necessary to do so for the immediate protection of the interests of producers; and
- (b) the Commissioner, forthwith thereafter, serves upon the operator of the plant notice of a hearing to be held within fifteen days after the removal of the plant from the list.

9c. Where, after a hearing, the Commissioner has not included a plant on or has removed a plant from the list referred to in section 9a, he may at any time of his own motion or on the application of the operator of the plant vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after such rehearing as he considers proper under this Act.

Commissioner
may vary
or rescind
decision

9d.—(1) Where the Commissioner refuses to include a plant on or removes a plant from the list referred to in section 9a, the operator of the plant may, by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner, appeal to the Board.

Appeal
to Board

(2) The Board may extend the time for the giving of notice under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Extension
of time
for appeal

(3) Where an operator appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the plant should be included on or removed from the list and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purposes, the Board may substitute its opinion for that of the Commissioner.

Disposal
of appeal

(4) Notwithstanding that an operator has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of.

Effect of
decision of
Commissioner
pending
disposal
of appeal

9e.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Parties

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Members
making
decision
not to have
taken part
in investiga-
tion, etc.

Recording of
evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Only members
at hearing
to
participate
in decision

(4) No member of the Board shall participate in a decision of the Board after a hearing who was not present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Application
of
1971, c. 47

9f. *The Statutory Powers Procedure Act, 1971* applies to any hearing by the Commissioner or the Board under this Act.

Appeal to
Divisional
Court

9g.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister
entitled to
be heard

(2) The Minister is entitled to appear, by counsel or otherwise, upon the argument of an appeal under this section.

Record to
be filed
in court

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, constitutes the record on the appeal.

Powers of
court on
appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.

Effect of
decision
of Board
pending
disposal
of appeal

(5) Notwithstanding that an operator has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

s. 10,
re-enacted

4. Section 10 of the said Act is repealed and the following substituted therefor:

Offence

10. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
6. The short title of this Act is *The Beef Cattle Marketing Amendment Act, 1980*. Short title

An Act to amend
The Beef Cattle Marketing Act

1st Reading

October 6th, 1980

2nd Reading

3rd Reading

THE HON. I. C. HENDERSON
Minister of Agriculture and Food

(Government Bill)

BILL 152

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Beef Cattle Marketing Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

BILL 152

1980

An Act to amend The Beef Cattle Marketing Act

HER, MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Beef Cattle Marketing Act*, being chapter 42 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following clauses: s. 1,
amended

(aa) "Board" means the Agricultural Licensing and Registration Review Board established under *The Ministry of Agriculture and Food Act*; R.S.O. 1970,
c. 109

(cc) "Commissioner" means the Live Stock Commissioner.

- 2.—(1) Clause *b* of subsection 1 of section 5 of the said Act, as re-enacted by the Statutes of Ontario, 1974, chapter 43, section 1 and amended by the Statutes of Ontario, 1978, chapter 87, section 3, is repealed and the following substituted therefor: s. 5 (1) (b),
amended

(b) fixing the amount of licence fees up to but not exceeding two-tenths of 1 per cent of the sale price for each head of cattle.

- (2) Subsection 4 of the said section 5, as enacted by the Statutes of Ontario, 1974, chapter 43, section 1, is repealed. s. 5 (4),
repealed

3. The said Act is amended by adding thereto the following sections: ss. 9a-9g,
enacted

9a.—(1) Subject to section 9b, the Commissioner shall prepare a list of plants that, in his opinion, comply with the provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis, and may amend or revise the list from time to time. Preparation
of list

Application
for listing

(2) Where the operator of a plant wishes to have his plant included on the list referred to in subsection 1, he shall apply therefor to the Commissioner in writing.

List may be
inspected

(3) The Commissioner shall maintain a copy of the list referred to in subsection 1, as amended or revised, at his office at all times and shall permit inspection thereof by the public during normal business hours.

Furnishing
and
publishing
list

(4) The Commissioner may,

- (a) send a copy of the list referred to in subsection 1 and any amendment or revision thereof to any person in Ontario who makes a request therefor; and
- (b) publish the list referred to in subsection 1 and any amendment or revision thereof in such manner as he considers advisable.

Purchase
of cattle

(5) No operator of a plant that is not included on the list referred to in subsection 1 shall purchase cattle for slaughter at his plant for a price calculated on a carcass weight basis.

Hearing
required

9b.—(1) A decision by the Commissioner not to include a plant on the list referred to in section 9a or to remove a plant from the list shall be made only after a hearing by the Commissioner.

Notice of
hearing

(2) Notice of a hearing by the Commissioner under subsection 1 shall afford to the operator of the plant a reasonable opportunity to show or achieve compliance before the hearing with the provisions of this Act and the regulations that apply where cattle are sold for a price calculated on a carcass weight basis.

Examination of
documentary
evidence

(3) The operator of a plant who is a party to the proceedings in which the Commissioner holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Removal
of plant
from list

(4) Notwithstanding subsections 1, 2 and 3, the Commissioner may remove a plant from the list referred to in section 9a without a hearing where,

- (a) in the opinion of the Commissioner, it is necessary to do so for the immediate protection of the interests of producers; and
- (b) the Commissioner, forthwith thereafter, serves upon the operator of the plant notice of a hearing to be held within fifteen days after the removal of the plant from the list.

9c. Where, after a hearing, the Commissioner has not included a plant on or has removed a plant from the list referred to in section 9a, he may at any time of his own motion or on the application of the operator of the plant vary or rescind his decision, but the Commissioner shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision after such rehearing as he considers proper under this Act.

Commissioner
may vary
or rescind
decision

9d.—(1) Where the Commissioner refuses to include a plant on or removes a plant from the list referred to in section 9a, the operator of the plant may, by written notice delivered to the Commissioner and filed with the Board within fifteen days after receipt of the decision of the Commissioner, appeal to the Board.

Appeal
to Board

(2) The Board may extend the time for the giving of notice under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension.

Extension
of time
for appeal

(3) Where an operator appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the plant should be included on or removed from the list and may, after the hearing, confirm or alter the decision of the Commissioner or direct the Commissioner to do any act he is authorized to do under this Act and as the Board considers proper and, for such purposes, the Board may substitute its opinion for that of the Commissioner.

Disposal
of appeal

(4) Notwithstanding that an operator has appealed under this section from a decision of the Commissioner, unless the Commissioner otherwise directs, the decision of the Commissioner is effective until the appeal is disposed of.

Effect of
decision of
Commissioner
pending
disposal
of appeal

9e.—(1) The Commissioner, the appellant and such other persons as the Board may specify are parties to the proceedings before the Board under this Act.

Parties

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Members
making
decision
not to have
taken part
in investiga-
tion, etc.

Recording of
evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Only members
at hearing
to
participate
in decision

(4) No member of the Board shall participate in a decision of the Board after a hearing who was not present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Application
of
1971, c. 47

9f. *The Statutory Powers Procedure Act, 1971* applies to any hearing by the Commissioner or the Board under this Act.

Appeal to
Divisional
Court

9g.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court.

Minister
entitled to
be heard

(2) The Minister is entitled to appear, by counsel or otherwise, upon the argument of an appeal under this section.

Record to
be filed
in court

(3) The chairman of the Board shall file with the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, constitutes the record on the appeal.

Powers of
court on
appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the Commissioner to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the Commissioner or the Board.

Effect of
decision
of Board
pending
disposal
of appeal

(5) Notwithstanding that an operator has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

s. 10,
re-enacted

4. Section 10 of the said Act is repealed and the following substituted therefor:

Offence

10. Every person who contravenes any of the provisions of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment
6. The short title of this Act is *The Beef Cattle Marketing Amendment Act, 1980*. Short title

An Act to amend
The Beef Cattle Marketing Act

1st Reading

October 6th, 1980

2nd Reading

October 21st, 1980

3rd Reading

November 14th, 1980

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to repeal The Warble Fly Control Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

TORONTO

PRINTED BY J. C. THATCHER, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

This Bill proposes the repeal of *The Warble Fly Control Act*.

BILL 153

1980

An Act to repeal The Warble Fly Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Warble Fly Control Act*, being chapter 487 of the Revised Statutes of Ontario, 1970, is repealed. ^{Repeal}

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

3. The short title of this Act is *The Warble Fly Control Repeal Act, 1980*. ^{Short title}

An Act to repeal
The Warble Fly Control Act

1st Reading

October 6th, 1980

2nd Reading

3rd Reading

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

(Government Bill)

BILL 153

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to repeal The Warble Fly Control Act

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

BILL 153

1980

An Act to repeal The Warble Fly Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Warble Fly Control Act*, being chapter 487 of the Revised Statutes of Ontario, 1970, is repealed. ^{Repeal}

2. This Act comes into force on the day it receives Royal Assent. <sup>Commence-
ment</sup>

3. The short title of this Act is *The Warble Fly Control Repeal Act, 1980*. ^{Short title}

An Act to repeal
The Warble Fly Control Act

1st Reading

October 6th, 1980

2nd Reading

October 21st, 1980

3rd Reading

November 14th, 1980

THE HON. L. C. HENDERSON
Minister of Agriculture and Food

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

An Act to amend The Employment Standards Act, 1974

MR. VAN HORNE

EXPLANATORY NOTE

The purpose of the Bill is to amend *The Employment Standards Act, 1974* in order to provide additional protections to employees who are laid off or whose employment is terminated. The Bill extends the time period for giving notice to an employee of a lay-off or termination of employment. The Bill requires an employer to provide assistance to the Minister of Labour, trade unions and employees in any action or program designed to re-establish employees in employment. The Bill also requires an employer to pay severance pay to employees whose employment is terminated.

BILL 154

1980

An Act to amend The Employment Standards Act, 1974

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 1 of section 40 of *The Employment Standards Act, 1974*, being chapter 112, is repealed and the following substituted therefor: s. 40 (1),
re-enacted

(1) No employer shall terminate the employment of or lay-off an employee who has been employed for three months or more unless the employer gives, Notice of
termination
or lay-off

- (a) two weeks notice in writing to the employee if his period of employment is less than two years;
- (b) four weeks notice in writing to the employee if his period of employment is two years or more but less than five years;
- (c) eight weeks notice in writing to the employee if his period of employment is five years or more but less than ten years; and
- (d) sixteen weeks notice in writing to the employee if his period of employment is ten years or more,

and such notice has expired.

- (2) Subsection 2 of the said section 40 is repealed and the following substituted therefor: s. 40 (2),
re-enacted

(2) Notwithstanding subsection 1, no employer shall lay-off or terminate the employment of between fifty and one hundred employees in any period of four weeks or less unless the employer gives thirteen weeks notice in writing to each employee and such notice has expired. Lay-off or
termination of
between fifty
and one
hundred
employees

Lay-off of
more than
one hundred
employees

(2a) Notwithstanding subsection 1, no employer shall lay-off or terminate the employment of more than one hundred employees in any period of four weeks or less unless the employer gives twenty-six weeks notice in writing to each employee and such notice has expired.

Application

(2b) Subsections 1, 2 and 2a apply to an employee or employees who are laid off or terminated during or as a result of a strike or lock-out at a place of employment.

s. 40 (5),
re-enacted

(3) Subsection 5 of the said section 40 is repealed and the following substituted therefor:

Employer to
co-operate

(5) Where an employer is required to give notice under subsection 2a, the employer shall co-operate with and provide assistance to the Minister, any trade union representing the employees and any committee of employees in any action or program designed to facilitate the re-establishment in employment of the employees.

s. 40,
amended

(4) The said section 40 is amended by adding thereto the following subsection:

Severance
pay

(6a) An employer who terminates the employment of an employee under this section shall pay to the employee one week's wages at the employee's regular rate of wages for his regular hours of work in respect of each completed year of employment.

s. 40 (7),
re-enacted

(5) Subsection 7 of the said section 40 is repealed and the following substituted therefor:

Termination
pay

(7) Where the employment of an employee is terminated contrary to this section, the employer shall pay the employee in addition to the amount payable under subsection 6a, an amount equal to the wages that the employee would have been entitled to receive at the employee's regular rate for the period of the notice required by subsection 1, 2 or 2a, as the case may be, and any wages to which he is entitled.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is *The Employment Standards Amendment Act, 1980*.

An Act to amend
The Employment Standards Act, 1974

1st Reading

October 6th, 1980

2nd Reading

3rd Reading

MR. VAN HORNE

(Private Member's Bill)

4TH SESSION, 31ST LEGISLATURE, ONTARIO
29 ELIZABETH II, 1980

**An Act respecting
Full Employment in the Ontario Economy**

MR. LUPSELLA

EXPLANATORY NOTE

The Bill requires the Treasurer of Ontario to table in the Legislative Assembly an Economic Report setting out the plan of the Government of Ontario for economic development and the achievement of full employment. The Bill also establishes a standing committee of the Legislative Assembly, to be known as the Standing Committee on Economic Development, to evaluate the state of the economy, to monitor the economic development of the Province of Ontario, to assess the progress of the Government of Ontario toward achieving full employment and to investigate problems in the economy.

BILL 155

1980

An Act respecting Full Employment in the Ontario Economy

WHEREAS it is public policy in Ontario to advance the economic rights of citizens; and whereas unemployment exacts tremendous economic and social costs from both the persons directly affected and the communities in which they reside; and whereas action is urgently needed to provide gainful employment for disadvantaged groups which suffer from higher than average levels of unemployment; and whereas the provincial government has the powers to engage in comprehensive economic planning which can dramatically reduce the incidence of unemployment in Ontario; and whereas the Legislative Assembly of Ontario instructs the Government of Ontario to establish as its principal economic goal the creation of employment for every resident of the province who is willing and able to work;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The purpose of this Act is to establish as a principal goal of public action the creation of full employment in Ontario and, in order to achieve this objective, the Government of Ontario shall use all available means, including both public and private sector enterprise, to provide useful paid employment at fair rates of compensation for all individuals able and willing to work.

Purpose

2. The Treasurer of Ontario shall, within twenty days after the commencement of a session of the Legislative Assembly, table in the Assembly an Economic Report.

Economic
report

3. The Economic Report shall be the plan of the Government of Ontario for economic development and the achievement of full employment and the Economic Report shall include,

- (a) a target date for the achievement of full employment and annual numerical goals for job creation and unemployment levels until the goal of full employment is achieved;

- (b) a comprehensive description of existing programs and new programs designed to achieve the full employment goals including any legislation or policy changes related to these programs;
- (c) a review of current and foreseeable economic trends that affect or may affect the level of employment in Ontario;
- (d) a comprehensive analysis of the level of unemployment within industrial and regional sectors of the Ontario economy and within economically disadvantaged groups of persons residing in Ontario;
- (e) a review of lay-offs and plant closings as well as new jobs created and plants opened within the previous twelve month period;
- (f) an assessment of the effectiveness of existing job creation and economic development programs including actual job creation results;
- (g) an assessment of the growth and extent of Canadian control and the effects of foreign control of the Ontario economy;
- (h) an assessment of the role of Crown corporations owned or controlled by the Government of Ontario in economic development and the creation of employment;
- (i) a comprehensive description of the policies and strategies, the implementation of which lies within federal legislative jurisdiction, that the Government of Ontario is recommending to the Government of Canada to achieve full employment in Ontario.

Standing
Committee on
Economic
Development

4.—(1) At the commencement of each session of the Legislature a standing committee of the Assembly shall be appointed, to be known as the Standing Committee on Economic Development, with authority to sit during and between the sessions of the Legislative Assembly.

Purpose of
Committee

(2) The purpose of the Committee is to evaluate the state of the economy, to monitor the economic development of the Province of Ontario, to assess the progress of the Government of Ontario towards achieving full employment and to investigate problems in the economy.

Report
referred to
Committee

(3) The Economic Report tabled by the Treasurer of Ontario stands referred to the Committee.

(4) The Committee shall examine and assess the Economic Report and the economic goals and programs established by the Government of Ontario and shall deal with such other matters as are referred to it from time to time by the Assembly. Committee to assess report

(5) The Committee may at all times command and compel the attendance before the Committee of such persons, and the production of such papers and things, as the Committee considers necessary for any of its proceedings or deliberations. Powers of Committee

(6) The Committee may investigate and commission reports or studies of any economic matters related to the achievement of the objectives of this Act. Idem

(7) The Committee may retain staff to advise the Committee in respect of any particular matter coming before it. Staff

(8) The Committee shall evaluate the Economic Report and report to the Assembly from time to time but at least once in every session, on the extent and degree to which the Government has complied with the purposes of this Act, and to make recommendations for more effective compliance by the Government and to make such further observations and opinions as it sees fit. Report

5. This Act comes into force on the day it receives Royal Assent. Royal Commencement

6. The short title of this Act is *The Full Employment Act, 1980*. Short title

An Act respecting Full Employment
in the Ontario Economy

1st Reading

October 6th, 1980

2nd Reading

3rd Reading

MR. LUPUSSELLA

(Private Member's Bill)
